

JULIA L. TAN AND JAMES L. TAN, PETITIONERS, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 97238. July 15, 1991

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review the decision as well as the resolution of the Court of Appeals which affirmed the order dated June 16, 1989 of the Regional Trial Court of Quezon City, Branch 88 in Civil Case No. Q-89--2357 convicting petitioners Julia L. Tan and James L. Tan of indirect contempt and sentencing each of them to suffer a penalty of imprisonment of ten (10) days and to pay a fine of P500.00 each.

Petitioner Julia L. Tan is an 84 year old widow who is the Principal of Grace Christian High School offering both elementary and secondary courses while petitioner James L. Tan is the Administrative Consultant of the school.

This case arose from the refusal of the petitioners to admit and enroll certain students for the school year 1987-1988 because heated controversies, acts of misbehavior, and a refusal to dialogue with the school administration led the school authorities to believe that it would be best for all concerned if these children enrolled in other schools.

Two separate petitions for mandamus with prayers for preliminary mandatory injunction were eventually filed with the Regional Trial Court of Quezon City. The first case docketed as Civil Case No. Q-51039 was assigned to Branch 79 of the court. The second case which led to the present petition was docketed as Civil Case No. Q-89-2357 and was assigned to Branch 88. The latter case was filed by Vicente Luy and his daughter Vonette Luy, who were also petitioners in Civil Case No. Q-51039.

On July 1, 1987, Branch 79 in Civil Case No. Q--51039 issued an order granting the issuance of a writ of preliminary injunction. The school and the petitioners were ordered to allow enrollment of the subject children.

While the two cases were pending in court, the children were enrolled and continued their studies. During the enrollment period in May, 1989, however, the petitioners refused the enrollment in the first year high school of Carmelea Ang See, Michael Robert Ang, Karen Gay Dipasupil and Vonette Luy on the ground that the school was under no legal duty to still accept them in the high school after graduating them from the elementary course.

On May 23, 1989, Vicente Luy (father of Vonette Luy) together with other parents Josefina Ang, Teresita Ang See and Teresita Dipasupil filed in Branch 79, a motion to hold in indirect contempt the petitioners for refusing to enroll their children in alleged disobedience of the writ of preliminary injunction issued on July 1, 1987.

On May 25, 1989, Branch 88 issued an order in the second case granting the prayer for the issuance of the writ of preliminary mandatory injunction and ordering the petitioners to enroll Vonette Luy in the first year high school.

In the meantime, the herein petitioners challenged in the Court of Appeals (CA-G.R. SP No. 13179) the order granting the writ of a preliminary mandatory injunction by Branch 79.

On June 26, 1989, the Court of Appeals set aside the order prompting the respondents to file a petition for certiorari with us. The case was docketed as G.R. No. 90063.

In a resolution dated December 12, 1989, we dismissed the petition for lack of merit and resolved "that x x x the children here affected shall be allowed to finish the current school year (including the summer term if any), as the questioned order of the Court of Appeals shall take effect only as of the beginning of school year 1990-1991."

Meanwhile, the case in Branch 88 continued its independent course. Thus, on June 16, 1989, the trial court upon motion of Vicente Luy issued the questioned order. This order is now challenged by the petitioners in this case.

The facts of the controversy which led to the two cases against the petitioners are stated in this Court's Resolution in G.R. No. 90063, "Yap Chin Fah, et al. v. Court of Appeals, et al.", December 12, 1989, as follows:

"Sometime in 1986, private respondent Grace Christian High School ('Grace Christian') applied with the then Ministry of Education, Culture and Sports (MECS) for a tuition-fee increase of fifteen percent (15%) for the School Year (SY) 1986-87. Private respondent Grace Christian had applied for, and been granted, yearly increments in tuition fees from SY 1973-74 (except for SY 1983-84) until SY 1985-1986. On 18 December 1986, Grace Christian received a notice from the MECS that its fee-increase application had been definitively approved on 10 November 1986.

Meanwhile, a group of parents whose children are enrolled in Grace Christian, allegedly alarmed by what they perceived to be deterioration -- despite the periodic fee increases -- in academic standards and physical facilities of the school, formed the Grace Christian High School Parents-Teachers Association ('Association'). The Association, composed of a majority of the parents (despite its name, no faculty member sits on the executive committee) demanded: (a) recognition as an organization; and (b) representation in Grace Christian's policy-making process, viz., faculty selection and improvement of the physical plant. Feeling that their demands had been largely ignored, the Association in October 1985 asked for a formal dialogue with the school administration. During a heated exchange in this dialogue, one of the petitioners herein, William Tiu, stood up and pointed a finger and shouted at Grace Christian's vice-principal, and later spat on the latter.

On 23 September 1986, Grace Christian had been granted provisional authority by the MECS to impose a fifteen percent (15%) increase in tuition fee for SY 1986-1987. Thereupon, some of the above-mentioned group of parents lobbied with the other parents urging non-payment of the fee increase. During the enrollment period for the second semester of SY 1986-1987, a number of parents, among them petitioners (comprising nine [9] members or officers of the 19-member executive committee, of the Association) refused to pay the incremental fee: Grace Christian in turn refused to receive these parents' payment of regular (i.e., the fee before the fifteen [15%] increase) tuition fee for that semester. On 16 December 1986, Grace Christian reminded the parents about the payment of the approved increased tuition fee for the second semester.

From 23 February to 5 March 1987, a group of parents, petitioners included, staged a rally outside the school gates. Banners and placards critical of the school administration were set up. The latent animosity between the Association (or some members thereof) and Grace Christian began to flare up. Petitioners first came out with statements in the print and broadcast media attacking Grace Christian's periodic fee increases and allegedly deteriorating academic standards. Some of the petitioners, armed with videocameras, forced their way into the school premises and interrupted a class in session, urging students therein to speak -- using the allotted class hour -- against school policies. Some of the students walked out of their classrooms to join their parents in the rally outside.

On 27 February 1987, the Association through a letter asked Secretary Quisumbing of the Department of Education, Culture, and Sports (DECS) to reconsider the 23 September 1986 (as well as the 10 November 1986) order granting the school's application for a fee increase. On 12 March 1987, the Association obtained a 'freeze-order' from the DECS, enjoining Grace Christian from imposing the already approved fifteen percent

(15%) fee increase, until the DECS shall have received proof that sixty percent (60%) of the increase had been apportioned to salaries of Grace Christian's faculty. After submission by Grace Christian of proof of payment of salary increases to the faculty, the DECS in an Indorsement dated 16 March 1987 lifted the 'freeze-order,' thereby allowing the school to resume collection of the fifteen percent (15%) fee increase.

Meanwhile, the already adversarial relationship between Grace Christian and the Association further deteriorated when the school administrators overheard several of the Prep (preschool) students chanting slogans against the school and its teachers, indicating that their parents had imbued them with hostility or at least disdain and scorn for the school.

During the period 14-18 April 1987, petitioners were individually and personally informed through a letter by the principal of Grace Christian that, as they were severely critical of the school's policies, it would be best for all concerned if their children enrolled in some other school. On 25 May 1987, the first day of the enrollment period for SY 1987-88, petitioners were informed that as their respective children were in the list of 'referral' cases, the school principal would confer with them either in the afternoon of 29 May 1987, the last day of enrollment, or on 30 May 1987. Petitioners felt that their children were being singled out by the school and decided not to see the principal and instead proceeded to the DECS for advise. The DECS in a 1st Indorsement dated 1 June 1987 ordered private respondent School to enroll petitioners's children. The latter however refused to enroll these students, prompting petitioners to file an action for mandamus in court. The trial court on 11 June 1987, to maintain the status quo between the parties, ordered the temporary enrollment of petitioners' children." (Resolution - G.R. No. 90063, pp. 1-4)

While Civil Case No. Q-51039 was being considered on appeal by the Court of Appeals and later the Supreme Court, the proceedings were also going on in Civil Case No. Q-89-2357, which had been filed by Vonette C. Luy and her father Vicente Luy and assigned to Branch 88 on April 26, 1989.

The Luy petition alleged:

x x x x x x x x

"x x x. [T]hat during the school year 1989--1990 appellants unjustifiably refused to admit her in the High School Department, despite the fact that she was given a reservation slip which she was instructed to fill up and 'return not later than April 15, 1989 together with report card for this year.' Before April 15, 1989, she submitted the reservation slip to the school principal, but the principal informed her that she would no longer be admitted because her father was very vocal against certain school policies and activities. As the school principal refused to allow her to enroll in the High School Department, her father wrote a letter?complaint dated April 7, 1989 to the Department of Education, Culture and Sports (DECS). The Department indorsed the letter to the school for immediate comment and/or appropriate action (Exhibits 'E' and 'D'). In reply, the lawyer of the school wrote the DECS to reiterate the school's decision not to enroll Vonette Luy in its High School Department (Exhibit 'E')." (Rollo, pp. 40-41)

The school and herein petitioners Julia and James Tan opposed the issuance of the writ of preliminary mandatory injunction on the grounds that:

x x x x x x x x

"x x x (a) the right of a student to enroll in a private school is riot absolute; (b) Vonette C. Luy failed to exhaust all administrative remedies; and (c) there is no clear legal basis for the issuance of a writ of preliminary mandatory injunction." (Rollo, p. 41)

On May 25, 1989, Judge Tirso D. C. Velasco issued the writ, stating:

"'In view of the foregoing, the petitioner has clearly established her right to be admitted to the First Year, High School Department, Grace Christian School, Quezon City and the unmitigated duty of respondents to admit the

petitioner to the aforesaid High School Department:

The Writ of Preliminary Mandatory Injunction is hereby GRANTED and the respondents are ordered to allow the enrollment of petitioner in the High School Department, Grace Christian High School, Quezon City, after posting a bond of Five Thousand Pesos of compliance to this Court within three (3) days from receipt hereof. (pp. 73-74, Records.)" (Rollo, pp. 41-42)

A motion for reconsideration was filed followed by a supplemental motion for reconsideration. The petitioners stated that the Department of Education, Culture, and Sports had decided their administrative case upholding the right of the school to refuse enrollment in the first year high school of Vonette Luy as well as the other students similarly situated. (See Annex "D", Rollo, pp. 52-53)

Significantly, the petitioners also pointed out to the court that Vicente Luy and his daughter were engaging in forum shopping because Civil Case No. Q--51039 had been filed earlier by Mr. Luy himself and various other parents. There was pending exactly the same cause of action on contempt and both cases were raising the same issues.

As earlier stated, the first case on the grant of mandatory injunction was at that time already with the Court of Appeals.

On June 9, 1989, Vicente Luy filed a motion to declare the petitioners in contempt of court for refusing to enroll Vonette Luy in high school.

We note that on this same date, June 9, 1989, the other court presided over by Judge Godofredo Legaspi denied the similar motion for contempt filed by Mr. Luy, Josefina Ang, Teresita Ang See, and Teresita Dipasupil.

On June 13, 1989, Judge Tirso Velasco ordered the petitioners to comply with the writ of preliminary mandatory injunction or he would act on the motion for contempt. The petitioners opposed this order stating that Judge Legaspi had just denied the similar motion for contempt in the other case (Civil Case No. Q-51039). In this opposition, the petitioners again charged Mr. Luy with forum shopping contending that the first case he filed with others should take precedence over Civil Case No. Q-89-2357 pending before Judge Velasco's court.

On June 16, 1989, Judge Velasco issued the order questioned in this petition, stating:

"IN VIEW WHEREOF, and for continuously defying not only the writ of this court but also the three Orders of June 7, June 13 and June 15, 1989, the Court finds the two respondents Julia L. Tan and James Tan guilty beyond reasonable doubt of indirect contempt and hereby sentences each of them to suffer a penalty of imprisonment of ten (10) days and to pay the cost. They are likewise fined P500.00 each.

The Court orders that a warrant of arrest be immediately issued and served upon them to start service of sentence. The Court will determine whether, during this period of time, petitioner Vonette Luy shall have been enrolled in respondent school for if not a determination shall be made whether respondents shall be continuously held in custody until compliance by them of the court's writ of preliminary mandatory injunction." (Rollo, p. 57)

Only ten (10) days later, on June 26, 1989, the Court of Appeals set aside the writ issued by Judge Velasco which had commanded the herein petitioners to enroll the protesting school children. It lifted the writ of preliminary injunction it had issued. A motion for reconsideration was denied.

The parents went to our Court. We initially issued a status quo order, enjoining the parties to maintain the situation existing before the decision of the Court of Appeals was rendered.

On December 12, 1989, however, we decided the controversy in favor of herein petitioners and the school. The

Court in G.R. No. 90063 declared the petition of the parents and their children unmeritorious. We stated:

"'ACCORDINGLY, the Court Resolved to DISMISS the Petition for lack of merit. However, the children here affected shall be allowed to finish the current school year (including the summer term, if any), as the questioned Order of the Court of Appeals shall take effect only as of the beginning of SY 1990-91.' Padilla, J., took no part, Gutierrez, Jr., J., is on official leave)." (at p. 7)

The petition in this case is impressed with merit.

Our ruling in *Yap Chin Fah, et al. v. Hon. Court of Appeals, et al.* was already long final when the Fourth Division of the Court of Appeals rendered its October 22, 1990 decision practically ignoring and rendering naught the ratio decidendi which impelled us to dismiss the earlier petition. This cannot be countenanced.

We stressed in *Ver v. Quetulio* (163 SCRA 80 [1988]), citing *Ang Ping v. Regional Trial Court of Manila, Br. 40* (154 SCRA 77 [1987]):

"As early as 1922, this Court declared in *Shioji v. Harvey* (43 Phil. 333) that 'the only function of a lower court, when the judgment of a higher court is returned to it, is the ministerial one of issuing the order of execution. A lower court is without supervisory jurisdiction to interpret or to reverse the judgment of the higher court.'

This is especially true where it is a Supreme Court decision or resolution which states with finality how the particular case before it has been resolved. We ruled in *Tugade v. Court of Appeals* (85 SCRA 226):

'Respondent Court of Appeals is really devoid of any choice at all. It could not have ruled in any other way on the legal question raised. This Tribunal having spoken, its duty was to obey. It is as simple as that. There is relevance to this excerpt from *Barrera v. Barrera* (34 SCRA 98 [1970]). 'The delicate task of ascertaining the significance that attaches to a constitutional or statutory provision, an executive order, a procedural norm or a municipal ordinance is committed to the judiciary. It thus discharges a role no less crucial than that appertaining to the other two departments in the maintenance of the rule of law. To assure stability in legal relations and avoid confusion, it has to speak with one voice. It does so with finality, logically and rightly, through the highest judicial organ, this Court. What it says then should be definitive and authoritative, binding on those occupying the lower ranks in the judicial hierarchy. They have to defer and to submit.' (Ibid, 107). The opinion in *Barrera* further emphasizes the point: 'Such a thought was reiterated in an opinion of Justice J. B. L. Reyes and further emphasized in these words: 'Judge Gaudencio Cloribel need not be reminded that the Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is; it is the final arbiter of any justiciable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings. (Justice J.B.L. Reyes spoke thus in *Albert v. Court of First Instance of Manila* (Branch VI, 23 SCRA 948, 961).'" (Emphasis supplied)

The respondent Court of Appeals should have been aware that in the related case (G.R. No. 90063), we had already set aside the writ of preliminary injunction similar to the writ from which emanated the contempt order directing that the petitioners be imprisoned and made to pay fines. If this Court had already found a preliminary injunction invalid and sustained the school's position that there was no unmistakable and indubitable right to enroll the petitioners' children, any lower court's decision to the contrary is not only unenforceable and ineffective, but certainly cannot be the basis for a contempt order.

Our ruling in the related case of *Yap Chin Fah, et al. v. Hon. Court of Appeals, et al.*, states:

"As the Court of Appeals pointed out, petitioners here failed to exhaust their administrative remedies before resorting to court action, as they had failed to: (a) see the principal of Grace Christian on 29 May 1987, their

scheduled conference date; (b) wait for the resolution of the letter of reconsideration/clarification of 1st Indorsement dated 1 June 1987 filed by Grace Christian with the DECS Assistant Regional Director; and (c) appeal to the DECS Secretary to finally resolve their disagreements with Grace Christian, the right to appeal from the decision of a subordinate officer to a superior one constituting 'a plain, speedy and adequate remedy in the ordinary course of law' within the meaning of the Rules of Court. The Education Act of 1982 vests in the DECS the primary authority to hear and resolve disputes by and among members of the educational community similar to those between petitioners and Grace Christian.

Moreover, a writ of preliminary mandatory injunction lies only when the right sought to be enforced is clear, unmistakable and indubitable (*Rivera v. Florendo*, 144 SCRA 643 [1986]). In the instant case, no such clear right was shown. It is true that private schools -- not unlike public utilities and other private corporations whose businesses impinge on the public interest -- are subject to reasonable regulation and supervision of the State (Const., Art. XIV [4] [1]). At the same time, however, private schools have the right to establish reasonable rules and regulations for the admission, discipline and promotion of students. This right to establish and enforce reasonable rules and regulations extends as well to parents and parent-teacher associations, as parents are under a social and moral (if not legal) obligation, individually and collectively, to assist and cooperate with the schools. In the instant case, since petitioners have failed to comply with the conditions and prerequisites for admission, i.e., registration within the prescribed dates, payment of duly-approved- tuition fees, and compliance with school rules and regulations, Grace Christian cannot be regarded as having acted arbitrarily or capriciously in refusing to re-enroll petitioners' children.

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"Lastly, where relations between parents and students on the one hand, and teachers and administrators upon the other hand, have deteriorated to the level here exhibited, a private school may, in the interest of the rest of the student body and of the faculty and management as a whole, and of the children of the parents affected, require the affected children to be enrolled elsewhere. 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 petitioners' children and to reintegrate them to the student body. It may even be argued that petitioners' children have been innocent victims in a deplorable confrontation between some parents and respondent School, but the situation here finds some analogy in labor cases where, because of pre-existing and supervening strained relations, reinstatement is not always a feasible solution." (G.R. No. 90063, December 12, 1989, pp. 5-6; 7)

The issue before us was the right to enroll in high school of students who graduated from the elementary department of the same institution. Exactly the same issue is raised in the case which gave rise to the contempt order and to the present petition. Under the common facts of the two cases, both the DECS and this Court have found the petitioners' position valid.

We cannot close this case without deploring the action of Vicente Luy and his counsel for filing Civil Case No. Q-89-2357 in 1989 when exactly the same issues were already before Branch 79 in Civil Case No. Q-51039 filed by, among others, Mr. Luy in 1987. This results not only in unnecessarily clogging the heavily burdened dockets of our courts but also in the unseemly sight of two Branches of the same trial court, and two Divisions of the Court of Appeals issuing contradictory decisions - one in favor of the school and the other in favor of the students and their parents. This problem of forum-shopping is now before our Committee on the Revision of the Rules of Court.

Pending any amendment of the Rules or a circular remedying this problem, lawyers and litigants alike are warned to be more candid with courts of justice and not engage in forum-shopping through deliberate splitting of actions or appeals in the hope that even as one case is dismissed, another would still be open.

The Court of Appeals in this case was also misled. It ruled:

"It is important to note that Civil Case No. Q-51039 was filed for the purpose of requiring appellants to maintain the eight (8) students in the roll of students in the Elementary Department. This prayer was granted when the court issued the writ of preliminary mandatory injunction asked for. Herein appellants thereafter complied with the said order. It was only when the school refused to admit the eight (8) students in its High School Department that they filed the motion for contempt. Said motion was denied because what the initial petition prayed for was for the issuance of a writ of preliminary mandatory injunction to maintain the enrolment in the Elementary Department of the students and not their admission in the High School Department of said school. Therefore, the right of the students to be admitted in the High School Department was not in issue hence, the court was correct in ruling that it had no jurisdiction to declare the appellants in contempt of court for the act complained of, thereby dismissing the charge without considering its merits." (Rollo, pp. 45-46)

Civil Case No. Q-51039 was filed by Vicente Luy and other parents not only to continue enrolling their children in the elementary department but also to compel the enrollment of their other children in the high school department of Grace Christian School. As pointed out by the petitioners, there were eighteen (18) students involved in Civil Case No. Q-51039, not eight (8) as stated by the Court of Appeals. Vonette Luy had two sisters, Vivian Luy and Virna Luy who were high school students and who joined in the petition. The case involved not only elementary grade but also high school students.

No thinking person can dispute the fact that our country is suffering from the effects of a serious deterioration of academic and other standards in our educational system. This Court is disturbed by the big number of candidates taking the bar examinations who, after six (6) years in the elementary grades, four (4) years in high school, and eight (8) years in college appear to be functionally semi-illiterate judging from the answers they give to bar examination questions. The same is true of other disciplines, professions, and occupations. A drastic upgrading of educational standards especially in the elementary and high school levels is imperative.

It is for the above reason that Government should uphold and encourage schools and colleges which endeavor to maintain the highest standards of education. We have consistently sustained the rights of students to legitimately address their grievances both to school authorities, media, and the general public to the extent of sometimes countenancing uncivil and rowdy behaviour. However, we have not hesitated to strike down violence and anarchy when certain students and their inevitable supporters misuse the grant of "ordered liberty" mandated by the Constitution. Educators who insist on high standards and who enforce reasonable rules of discipline deserve support from courts of justice and other branches of Government.

WHEREFORE, the petition is hereby GRANTED. The questioned DECISION and RESOLUTION of the Court of Appeals are REVERSED and SET ASIDE. The petitioners are ACQUITTED of the offense of indirect contempt of court.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Paras, Feliciano, Bidin, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

Cruz, J., see dissent.

Padilla, J., no part, petitioner's counsel is an associate of his former law firm.

Sarmiento, J., no part, did not take part in the deliberations because he was on leave.

Gancayco, J., on leave.

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DISSENTING OPINION

CRUZ, J.:

I have reservations about the ponencia insofar as it suggests that if the parents are not satisfied with the policies of the school they are free to enroll their children elsewhere. It is not as simple as that. The school is not a strictly private business or an exclusive club admission to which is entirely discretionary in its officials or membership. It is an enterprise affected with public interest and as such does not have full freedom in defining its policies. The school has a missionary and visionary purpose. That purpose transcends personal animosities and idiosyncrasies like those involved in the case before us.

The policies of the school are not its concern alone but also that of the parents who have entrusted to it the education of their children. No less than the Constitution recognizes the natural right and duty of the parents in the rearing of the youth for civic efficiency and the development of moral character. The mere fact that the parents have enrolled their children in the school does not mean they have surrendered to it full authority in the pursuit of the said objectives. The education of the youth is a collaborative effort between the parents and the school, and neither can deny the other its assigned role in this endeavor.

The parents should have the right to examine the policies of the school and to demand a higher quality of education for their children. The method must, of course, be lawful. But refusing the children re-admission simply because their parents have incurred the displeasure of the school is to me an arbitrary decision that this Court should not condone.

The ponencia cites our earlier resolution in *Yap Chin Fah v. Court of Appeals*, where we said that the strained relations between the parents and the school might justify the refusal of the latter to re-enroll the students, in the interest of all concerned, including the students themselves. The analogy was there made of labor cases, where reinstatement may not be considered a "feasible solution" because of strained relations between the employee and management.

While I do not disagree with the ruling as a general principle, I think it should be applied on a case-by-case basis, taking into account the particular attendant circumstances, especially the reason for the strained relations. Conceivably, these may have been caused by the school itself, and not always innocently. Where, say, the school is run by an authoritarian who obstinately refuses to listen to others, or it enforces clearly whimsical or arbitrary policies, or it deliberately provokes the parents precisely to cause the strained relations, I do not think the parents should be faulted for protesting. The doctrine would clearly be inapplicable in such cases notwithstanding the strained relations.

At any rate, there should be no question that not every complaint of the parents is per se unreasonable. It should not follow that because their complaints have strained their relations with the school, their children can on that score alone be denied re-enrollment.

I am also thinking of another situation that could perhaps cause us more serious concern unless we define narrow perimeters for the doctrine. We have said often enough, most recently in *Non v. Dames*, 185 SCRA 523, that the enrollment of the student does not connote the forfeiture of his constitutional rights, which he does not leave at the "gateposts of the school." My fear is that in exercising such rights, he may offend the sensibilities of the school and consequently become persona non grata. Shall we, following the said doctrine, sustain the school when it refuses him re-admission for the sake of peace on the campus? I submit that in this and similar cases - including

the case at bar - the academic freedom of the school to choose its students should not be stretched beyond its constitutional limits.

It is so easy to say that the parents may enroll their children elsewhere if they do not like the school, and good riddance to all concerned. But there are other considerations that in fairness, and to be realistic, should not just be disregarded. In the particular case of Grace Christian High School, it may be that it is the nearest school that can offer a Protestant upbringing to the children and their transfer to another school of the same religion may entail more expense of time and money, not to mention the psychological trauma of rejection and dislocation they may suffer. Such involuntary transfer may not be the most feasible solution.

In such circumstances, I suggest that the Court, instead of recognizing the belligerency, as it were, should encourage an amicable arrangement that will allow the children to re-enroll while at the same time according the school and the parents another opportunity to sit down and reason together (and in the process provide an example to the students).

I venture the hope that the strained relations deplored by the Court in the said resolution, which was promulgated on December 12, 1989, almost one and a half years ago, may not be as acrimonious now as they were then and that the tension between the parties may have sufficiently loosened by now to allow mutual accommodation.

It is worth noting that the school has graduated the children from its elementary department, which would suggest that they are eligible by its own standards for admission to its high school department. I agree with the ponencia that education in this country must be improved, but it is not the academic proficiency of the students that is the issue in this case.

The preliminary mandatory injunction issued by Judge Solano was merely preliminary, subject to the results of the trial on the merits. There was no deliberate defiance of the resolution cited because the reason for the strained relations between the parents and the school, and the degree of their hostility, was a legitimate inquiry that had yet to be made. Pending the decision of Civil Case No. 051039, the petitioners were obliged to comply with the mandate of the court in the interest of the orderly administration of justice.

I am not prepared to agree that the preliminary mandatory injunction was a patently unlawful order that the petitioners could simply ignore on their own inofficious decision that it was invalid. That judgment was not for them to make. They should understand that, as litigants, they cannot reverse the judge; only a higher court may do that. The writ being a presumably lawful process of the trial court, the petitioners should have dutifully obeyed it, without prejudice to their right to challenge it later in the appropriate proceedings.

I vote to affirm the decision of the Court of Appeals and to dismiss the petition.

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