

SECOND DIVISION

[G.R. No. 200984, November 25, 2019]

NONA S. RICAFORT, IN HER CAPACITY AS CHAIRMAN OF THE BOARD OF TRUSTEES OF EULOGIO "AMANG" RODRIGUEZ INSTITUTE OF SCIENCE AND TECHNOLOGY (EARIST), HORACE R. CRUDA, ATTY. ARMI-MINDA DAYOT CORPUZ, MARCELINA E. BACANI, EDUARDO G. ONG, AND RONNIE C. TUNGUL, IN THEIR CAPACITY AS MEMBERS OF THE BOARD OF TRUSTEES OF EARIST, AND DR. ENRIQUE R. HILARIO, IN HIS CAPACITY AS THE DESIGNATED OFFICER-IN-CHARGE OF THE OFFICE OF THE PRESIDENT OF EARIST, PETITIONERS, VS. MAURA V. BAUTISTA, RESPONDENT.

DECISION

INTING, J.:

This is a Petition for Review^[1] filed under Rule 45 of the 1997 Rules of Civil Procedure which seeks to reverse and set aside the Decision^[2] dated February 28, 2012 of the Court of Appeals (CA) in CA-G.R. CV No. 93009 dismissing the appeal filed by Nona S. Ricafort (petitioner) and affirming the Decision^[3] dated October 14, 2008 of the Regional Trial Court, Branch 51, Manila (RTC Branch 51) in Civil Case No. 06-114930. The assailed Decision declared as illegal the unnumbered resolution^[4] issued by the Board of Trustees (BoT) of the Eulogio "Amang" Rodriguez Institute of Technology (EARIST) which considered Maura V. Bautista (respondent) to have mandatorily retired from service upon reaching the age of 65 years old, and thus, revoking her reappointment or extension of service as President of EARIST.

EARIST is a state college established by virtue of Presidential Decree No. 1524. Based on EARIST charter, and as reiterated in Republic Act No. (RA) 8292 otherwise known as the *Higher Education Modernization Act of 1997*, the BoT is its governing body.^[5]

On December 8, 1999, respondent was appointed as President of EARIST by Esther A. Garcia, then Chairman of the Commission on Higher Education (CHED) for four years effective on December 8, 1999, or until December 2003.^[6]

On May 14, 2003, or prior to the expiration of respondent's term in December 2003, the BoT passed Board Resolution No. 12-2003 approving the reappointment of respondent effective December 16, 2003 up to age 65, but without prejudice to an extension beyond 65 years of age.^[7]

On August 13, 2003, the BoT passed Board Resolution No. 15-2003 approving the reappointment of respondent for one full term of four (4) years effective on

December 16, 2003.^[8]

On September 5, 2003, Rolando R. Dizon, then Chairman of the CHED and on behalf of the BoT, signed the reappointment paper of respondent for one full term of another four years effective December 16, 2003 up to December 17, 2007. Hence, for her second term of office, respondent continued to discharge the functions of the President of EARIST.^[9]

Sometime in 2005, upon reaching the mandatory retirement age of 65, respondent was offered a retirement benefit by the Government Service Insurance System (GSIS) to which she applied^[10] and approved by the GSIS effective December 1, 2005.^[11] Respondent received from the GSIS her retirement and terminal leave benefits in the amount of P1,314,644.83^[12] and P821,347.68,^[13] respectively. Respondent continued to occupy the office as President of EARIST and she never submitted a resignation letter.

On April 19, 2006, upon learning of the approval of respondent's application for retirement, the BoT, headed by its new Chairman, herein petitioner, together with the other members thereof, passed and approved an unnumbered resolution, which considered the respondent to have mandatorily retired from service. Consequently, petitioner, in the same unnumbered resolution and in the Memorandum^[14] dated April 19, 2006, designated Dr. Enrique R. Hilario (Dr. Hilario), as Officer-in-Charge (OIC) of EARIST.^[15] The unnumbered resolution reads:

WHEREAS, Dr. Maura V. Bautista has mandatorily retired from the government service effective December 1, 2005;

WHEREAS, the Board of Trustees noted her retirement and decided in Executive Session not to extend her services;

WHEREAS, in the exigency of service, there is a need to designate an Officer-in-Charge to discharge the functions and responsibilities of the SUC President II;

NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, that the Board notes the mandatory retirement of Dr. Maura V. Bautista effective December 2005 and decided not to extend her services.

RESOLVED, AS IT IS HEREBY FURTHER RESOLVED, that the Board in the exigency of service, designates **DR. ENRICO R. HILARIO**, Dean, College of Industrial Technology as Officer-in-Charge, Office of the President of the Eulogio "Amang" Rodriguez Institute of Science and Technology effective April 20, 2006. He shall discharge the responsibilities of a SUC President II and he shall be entitled to all remunerations attached to the position except the basic salary thereof.

RE[S]OLVED FURTHERMORE, AS IT IS HEREBY FURTHERMORE RESOLVED, that all Board Resolutions relative to the re-appointment of Dr. Maura V. Bautista beyond the age of 65 are hereby revoked/rescinded.^[16]

The officers, faculty, students, and staff of EARIST were informed of Dr. Hilario's designation in a notice^[17] dated April 19, 2006, which reads:

Per instruction of Commissioner Nona S. Ricafort, Chairperson of the EARIST Board of Trustees, we are furnishing you with a copy of the resolution designating Professor Enrico R. Hilario as Officer-in-Charge, Office of the President of the EARIST effective April 20, 2006. This designation shall remain in force and in effect until a new President has been appointed/selected by the BOT.

This is in view of the mandatory retirement of Dr. Maura V. Bautista and of the EARIST Board of Trustees' decision not to extend her services as EARIST President.^[18]

On April 26, 2006, respondent filed a Petition for Injunction (with Application for a Temporary Restraining Order and/or Writ of Preliminary Injunction)^[19] praying, among others, that a temporary restraining order and/or writ of preliminary injunction be issued *ex parte* restraining petitioner and other members of the BoT from implementing the Memorandum dated April 19, 2006, and to order Dr. Hilario to cease and desist from exercising the functions of the President of EARIST.^[20] Respondent also prayed that after proper proceedings, the lower court declare as null and void and set aside the Memorandum dated April 19, 2006; make permanent the restraining order and a preliminary injunction issued against the implementation of the questioned Memorandum; and direct petitioner and other members of the BoT to pay moral and exemplary damages and attorney's fee.^[21]

On May 2, 2006, the RTC Branch 41, Manila (RTC Branch 41), where this case was originally assigned, issued an Order^[22] dismissing the petition. It ruled that the petition was not the proper remedy to assail the Memorandum dated April 19, 2006 and that respondent had other recourse before the CHED.

On Motion for Reconsideration,^[23] the RTC Branch 41 issued an Order^[24] dated June 6, 2006 granting the motion. The RTC set aside the earlier Order dated May 2, 2006.

On June 13, 2006, the RTC Branch 41 issued another Order^[25] granting a Temporary Restraining Order restraining petitioner and the other members of the BoT from implementing the Memorandum dated April 19, 2006, and ordering Dr. Hilario to cease and desist from exercising the functions as OIC of the Office of the President of EARIST. Further, the RTC Branch 41 ordered the reinstatement of respondent to resume her duties and functions as the President of EARIST.

On June 29, 2006, petitioner and other members of the BoT, through the Office of the Solicitor General (OSG), filed a Very Respectful Motion for Inhibition^[26] of the Presiding Judge of Branch 41.

On June 30, 2006, Judge Vedasto B. Marco, Presiding Judge of RTC Branch 41, granted the motion for inhibition.^[27] The case was re-raffled to RTC Branch 51.

On October 14, 2008, the RTC Branch 51 rendered a Decision^[28] in the petition for injunction. The court *a quo* ruled that the designation of Dr. Hilario as OIC of the Office of the President of EARIST was not proper because the position of president was not vacated per Section 30^[29] of the Revised Implementing Rules and Regulation (RIRR) for RA 8292.^[30] Following the RIRR, respondent was still serving as President of EARIST.

The court *a quo*, in the application for an injunction by respondent against herein petitioner and all other members of the BoT, was posed with the question as to whether the issuance of an injunction to stop the implementation of the Memorandum dated April 19, 2006 was proper and tenable, considering that based from respondent's allegations, she was reaching the age of 67 by November 2007. Thus, the court *a quo* held that although the prayer for injunction was tenable, but since respondent's reappointment was only effective up to December 2007, it considered the issuance of an injunction order not proper.^[31]

However, the court *a quo* awarded the respondent with actual damages by way of her unearned salary from April 19, 2006 up to December 2007; exemplary damages in the amount of P50,000.00; and attorney's fees in the amount of P20,000.00. Further, the court *a quo* required only the petitioner to pay the awards ratiocinating that the petitioner, in appointing an OIC in the Office of the President, displayed an abuse of power as Commissioner of the CHED and her action was purely personal.^[32]

Ruling of the CA

On February 28, 2012, the CA rendered the assailed Decision,^[33] which denied the appeal and affirmed the Decision dated October 14, 2008. The CA found it proper to award respondent with actual damages in the form of the loss of her salary from April 19, 2006 up to December 17, 2007.^[34] Further, the CA upheld the court *a quo*'s findings that petitioner was liable for exemplary damages by way of example or correction for the public good because the existence of bad faith on the part of petitioner was established.^[35] Also, as to the award of attorney's fees, the CA found that petitioner had refused to satisfy respondent's valid, just, and demandable claim. Hence, the CA deemed it just and equitable to grant respondent the amount of P20,000.00 as attorney's fees.

The Issue

Petitioner maintains that the award of exemplary damages and attorney's fees in favor of respondent lacks basis as the BoT acted in good faith when it issued the unnumbered resolution and considered respondent as having retired from the service.^[36]

Our Ruling

The petition is without merit.

A petition for review on *certiorari* under Rule 45 is an appeal from a ruling of a lower

tribunal on pure questions of law.^[37] In other words, in petitions for review on *certiorari*, only questions of law may be put into issue and questions of fact cannot be entertained.^[38] It is only in exceptional circumstances that the Court admits and reviews questions of fact, to wit: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.^[39] However, this case does not fall in any of the exceptional circumstances enumerated above.

In the petition before the Court, petitioner is raising mixed questions of fact and law.

Petitioner proffers that the award of the court *a quo* of damages in favor of respondent ostensibly lacks basis because there is no showing that the actuation or decision of the BoT was tainted with bad faith;^[40] and that the BoT merely interpreted the provision of RA 8292 insofar as its power to extend the term of office of an incumbent president is concerned.^[41] Moreover, petitioner explains that the BoT acted in good faith when it issued the unnumbered Resolution. Petitioner also asserts that the issuance of the unnumbered Resolution is a collegial action of the BoT since no one can act alone without the approval of the majority of the member. Hence, petitioner insists that the court *a quo* and the CA erred in singling her out as the only member of the BoT who shall be personally liable to respondent for exemplary damages and attorney's fees.^[42]

All told, the Court finds that the resolution of the propriety of the award of exemplary damages and attorney's fees entails a review of the factual circumstances which led the court *a quo*, as affirmed by the CA, to decide in such manner. Likewise, the position of petitioner that she did not act with malice or bad faith in the issuance of the unnumbered Resolution calls for the Court to analyze and weigh the evidence all over again.

It must be stressed that only questions of law can be addressed in reviews on *certiorari*.^[43] It is not the function of the Court to analyze or weigh the evidence, which tasks belong to the trial court as the trier of facts and to the appellate court as the reviewer of facts. The Court is confined to the review of errors of law that may have been committed in the judgment under review.^[44]

In *Madrigal v. Court of Appeals*,^[45] the Court had the occasion to rule that the Court's jurisdiction is limited to reviewing errors of law that may have been committed by the lower court. *The Court is not a trier of facts as it leaves these matters to the lower court, which has more opportunity and facilities to examine*