

## FIRST DIVISION

[ G.R. No. 171303, January 20, 2016 ]

**ELIZABETH L. DIAZ, PETITIONER, VS. GEORGINA R. ENCANTO,  
ERNESTO G. TABUJARA, GEMINO H. ABAD AND UNIVERSITY OF  
THE PHILIPPINES, RESPONDENTS.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

This is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Court, as amended, which seeks to reverse and set aside the April 28, 2005 Decision<sup>[1]</sup> and January 20, 2006 Resolution<sup>[2]</sup> of the Court of Appeals in CA-G.R. CV No. 55165,<sup>[3]</sup> which reversed the April 17, 1996 Decision<sup>[4]</sup> and September 17, 1996 Order<sup>[5]</sup> of the Regional Trial Court (RTC), Branch 71, Pasig City, in Civil Case No. 58397.

The undisputed facts as narrated by the Court of Appeals are as follows:

Plaintiff-appellant [Elizabeth L. Diaz] has been in the service of [the University of the Philippines] U.P. since 1963. In 1987, she was an associate professor in the College of Mass Communication (CMC). During the second semester for Academic Year (AY) 1987-1988, she was a full time member of the faculty and taught 12 units on full load. After 2 to 3 weeks of teaching, she applied for sick leave effective November 23, 1987 until March 1, 1988. She returned on March 2, 1988 and submitted a Report for Duty Form.

On May 3, 1988, Diaz filed a letter-application directly with U.P.'s Office of the President (Abueva) for sabbatical leave with pay for one (1) year effective June 1988 to May 1989, for "rest, renewal and study." Cecilia Lazaro, Chair of the Broadcast Department, initially recommended to CMC Dean Encanto that Diaz's sabbatical application be granted. After they discussed the options available to the CMC, Lazaro, on May 10, 1988, recommended instead that Diaz be granted any leave of absence she may be qualified for. In her May 2, 1988 letter, Diaz indicated her unwillingness to teach. Considering the CMC's experience with Diaz who dropped her courses in the previous semester, Lazaro deleted Diaz's name in the final schedule of classes for the 1st semester of AY 1988-89 beginning June 6, 1988. Incidentally, Diaz received her salary for June 1988, indicating that her sabbatical might be approved.

Thereafter, Encanto referred Diaz's sabbatical application to the Secretary of U.P., recommending its denial. When requested by (Chancellor) Tabujara, Encanto transmitted to the former a Reference Slip together

with her comments thereon. Meanwhile, Encanto requested Ermelina Kalagayan to hold Diaz's salary effective July 1, 1988 until further notice considering that her sabbatical application has not yet been approved and that she did not teach that semester. Consequently, Diaz's name was deleted in the payroll from September 1988 to January 1989.

On July 4, 1988, Tabujara recommended instead that Diaz be granted a leave without pay in order to enable the CMC to hire a substitute. The next day, the U.P.'s Secretary referred to Abad, Vice-President (VP) for Academic Affairs, the fact of denial of such sabbatical request, for his own comment/recommendation to the U.P. President. Meantime, Diaz confessed her problems to Abad. On July 8, 1988, Abad returned the Reference Slip indicating therein that Diaz had promised him earlier "to put down in writing, from her point of view, the historical backdrop as it were to the latest denial of her sabbatical leave." With comments, Abad then referred the matter to the U.P. President.

Pursuant to Administrative Order No. 42 issued by the U.P. President, the Academic Policy Coordinating Committee (APCC), on July 21, 1988, reviewed the case of Diaz. When reminded by Abad, Diaz again promised to give the background information.

On Diaz's request to teach for that semester, AY 1988-89, the Vice Chancellor for Academic Affairs, Edgardo Pacheco, and the HRDO Director, Atty. Pio Frago, instructed Encanto that "Until Prof. Diaz officially reports for duty, accomplishes the Certificate of Report for Duty, and the Dean of CMC confirms her date of actual report for duty, she is considered absent without official leave (AWOL) for the University."

On November 8, 1988, Abad, then as OIC, issued a Memorandum to Diaz to confirm as valid Encanto's reason of shortage of teaching staff in denying her sabbatical. Later, he also informed Diaz of her lack of service during the first semester of AY 1988-89, hence, she is not entitled to be paid and asked her to clarify her status of being on leave without pay.

[While Diaz was able to teach during the second semester of AY 1988-89, she was not able to claim her salaries for her refusal to submit the Report for Duty Form.<sup>[6]</sup> She received her salaries for June to July 15, 1989, but could no longer claim her salary after July 15, 1989, when Encanto reminded the University Cashier, in a letter dated July 26, 1989,<sup>[7]</sup> that Diaz had to "accomplish the Report for Duty Form to entitle her to salaries and make official her return to the service of the University."<sup>[8]</sup> Diaz's name was subsequently included in the payroll starting July 1990, when she submitted a Report for Duty after her return from compulsory summer leave.<sup>[9]</sup>

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In the meantime, on January 3, 1989, Diaz filed a complaint with the Office of the Ombudsman (OMB-00-89-0049), against Gemino H. Abad, Ernesto G. Tabujara and Georgina R. Encanto, all officials of the

University of the Philippines, for the alleged violation of Section 3(e) of R.A. 3019, involving the legality of a Report for Duty Form as a prerequisite to the payment of her salary.

On May 4, 1989, the Ombudsman dismissed the said complaint and ruled, *inter alia*:

Considering that Prof. Diaz was rightfully considered on leave without pay during the first semester of AY 1988-1989, to make official her return to the service of the University, it is advised that she accomplish the Report for Duty Form which will then be the basis to establish the date of her actual return to the service. However, if possible, the University authorities can perhaps dispense with the requirement and pay her salaries for actual services rendered from November 3, 1988.

Diaz's initial Petition for Certiorari in the Supreme Court (G.R. No. 88834) assailing the above-quoted Ombudsman's ruling was subsequently dismissed. She filed another Petition (G.R. No. 89207) raising exactly the same issues found in G.R. No. 88834.

Meanwhile, on July 18, 1989, Diaz instituted a complaint against the U.P., Abueva, Encanto, Tabujara and Abad with the Regional Trial Court, Pasig, Metro Manila praying that the latter be adjudged, jointly and severally to pay her damages. She claimed, among others, that [respondents] conspired together as joint tortfeasors, in not paying her salaries from July 1, 1988 in the first semester of academic year 1988-89, for the entire period when her sabbatical application was left unresolved, as well as the salaries she earned from teaching in the second semester from November 1988 to May 1989. She likewise claimed moral and exemplary damages and attorney's fees.

On August 31, 1989, the Supreme Court *En Banc* dismissed Diaz's Petition in G.R. No. 89207, *viz.*:

It is noted that the Ombudsman found no manifest partiality, evident bad faith, or gross inexcusable negligence on the part of the private respondents in denying the application for sabbatical leave of petitioner (Diaz) and in requiring her to fill up a Report for Duty Form as a requisite for her entitlement to salary.

To the petitioner's contentions, the Ombudsman observed, among others, the following: that, the denial of her sabbatical leave application was due to the exigencies of the service; that petitioner was not given a teaching assignment for the first semester of AY 1988-1989, because she did not want to teach then; that the delay in action on her leave application was due to petitioner's own fault for not following the usual procedures in the processing of her application; and that there

is no malice on the part of the private respondents in requiring petitioner to accomplish the Report for Duty Form which is the basis of the date of her actual return to the service.<sup>[10]</sup>  
(Citations omitted.)

In a Decision dated April 17, 1996, the RTC ruled in favor of petitioner Diaz, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of plaintiff and against defendants:

1. Ordering defendants, except Abueva, to pay plaintiff, jointly and severally, the amount of P133,665.50 representing the total unpaid salaries from July 1, 1988 to May 31, 1989 and from July 16, 1989 to May 31, 1990 to be covered by corresponding certificate of service, with legal rate of interest from the date of this Decision until its full payment.
2. Ordering defendants, except the University and Abueva, to pay plaintiff, jointly and severally, the amount of P300,000.00 as moral damages.
3. Ordering defendants, except the University and Abueva, to pay plaintiff, jointly and severally, the amount of P60,000.00 as exemplary damages.
4. Ordering defendants, except the University and Abueva, to pay plaintiff, jointly and severally, the reduced amount of P50,000.00 as and by way of attorney's fees.
5. Costs of suit.

The counterclaims filed by defendant Tabujara are DISMISSED.<sup>[11]</sup>

The RTC, ruling that a sabbatical leave is not a right but a privilege, held that petitioner Diaz was entitled to such privilege and found that **the delay in the resolution of her application was unreasonable and unconscionable.**

However, on September 17, 1996, the RTC, in denying the *Motions for Reconsideration* of the respondents in said case, also amended its earlier decision by absolving respondent Encanto from any liability, to wit:

WHEREFORE, judgment is hereby rendered in favor of plaintiff and against defendants:

1. Ordering defendants, except Abueva and Encanto, to pay plaintiff, jointly and severally, the amount of P133,665.50 representing the total unpaid salaries from July 1, 1988 to May 31, 1989 and from July 16, 1989 to May 31, 1990 to be covered by corresponding certificate of service, with legal rate of interest from the date of this Decision until its

full payment.

2. Ordering defendants, except the University, Abueva and Encanto, to pay plaintiff, jointly and severally, the amount of P300,000.00 as moral damages.

3. Ordering defendants, except the University, Abueva and Encanto, to pay plaintiff, jointly and severally, the amount of P60,000.00 as exemplary damages.

4. Ordering defendants, except University, Abueva and Encanto, to pay plaintiff, jointly and severally, the reduced amount of P50,000.00 as and by way of attorney's fees.

5. Costs of suit.

The counterclaims filed by defendant Tabujara are DISMISSED.<sup>[12]</sup>

The RTC dismissed the claim of petitioner Diaz against respondent Encanto on the ground that her function was purely recommendatory in nature. It held that she was not instrumental in the unreasonable and unconscionable delay in the resolution of petitioner Diaz's sabbatical application as she transmitted her recommendation to Abueva within eighteen days from her receipt of such application.<sup>[13]</sup>

Petitioner Diaz<sup>[14]</sup> and respondents Tabujara,<sup>[15]</sup> U.P., Abad<sup>[16]</sup> and even Encanto<sup>[17]</sup> appealed the RTC's ruling to the Court of Appeals.

As respondent Encanto was absolved of liability by the RTC in its September 17, 1996 Order, the Court of Appeals admitted her Brief,<sup>[18]</sup> as an incorporation to the other respondents' Brief,<sup>[19]</sup> and as a comment on petitioner Diaz's appeal.<sup>[20]</sup>

The respondents mainly argued that the RTC erred in holding them liable for damages despite the absence of bad faith on their part, as held by both the Ombudsman in OMB-00-89-0049 and the Supreme Court in G.R. No. 89207.

Petitioner Diaz, on the other hand, questioned the reversal of the RTC ruling only with respect to the liability of respondent Encanto, in a lone assignment of error, viz.:

**THE LOWER COURT GRAVELY ERRED IN REVERSING ITS ORIGINAL DECISION WITH REGARD TO PRINCIPAL DEFENDANT GEORGINA R. ENCANTO BY ABSOLVING HER OF LIABILITY FOR DAMAGES TO PLAINTIFF-APPELLANT ELIZABETH L. DIAZ WITHOUT ALTERING IN ANY MATERIAL RESPECT WHATSOEVER THE FINDINGS OF FACT IN THE ORIGINAL DECISION SHOWING CLEARLY THE RESPONSIBILITY OF DEFENDANT ENCANTO FOR (I) THE WRONGFUL DISAPPROVAL OF PLAINTIFF'S SABBATICAL APPLICATION; (II) THE UNJUST DEPRIVATION OF SALARIES DUE THE PLAINTIFF FOR ALMOST ONE WHOLE SEMESTER DURING**