

FIRST DIVISION

[G.R. No. 168008, August 17, 2011]

PETRONILO J. BARAYUGA, PETITIONER, VS. ADVENTIST UNIVERSITY OF THE PHILIPPINES, THROUGH ITS BOARD OF TRUSTEES, REPRESENTED BY ITS CHAIRMAN, NESTOR D. DAYSON, RESPONDENTS.

DECISION

BERSAMIN, J.:

The injunctive relief protects only a right *in esse*. Where the plaintiff does not demonstrate that he has an existing right to be protected by injunction, his suit for injunction must be dismissed for lack of a cause of action.

The dispute centers on whether the removal of the petitioner as President of respondent Adventist University of the Philippines (AUP) was valid, and whether his term in that office was five years, as he insists, or only two years, as AUP insists.

We hereby review the decision promulgated on August 5, 2004,^[1] by which the Court of Appeals (CA) nullified and set aside the writ of preliminary injunction issued by the Regional Trial Court (RTC), Branch 21, in Imus, Cavite to prevent AUP from removing the petitioner.

Antecedents

AUP, a non-stock and non-profit domestic educational institution incorporated under Philippine laws on March 3, 1932, was directly under the North Philippine Union Mission (NPUM) of the Southern Asia Pacific Division of the Seventh Day Adventists. During the 3rd Quinquennial Session of the General Conference of Seventh Day Adventists held from November 27, 2000 to December 1, 2000, the NPUM Executive Committee elected the members of the Board of Trustees of AUP, including the Chairman and the Secretary. Respondent Nestor D. Dayson was elected Chairman while the petitioner was chosen Secretary.

On January 23, 2001, almost two months following the conclusion of the 3rd Quinquennial Session, the Board of Trustees appointed the petitioner President of AUP.^[2] During his tenure, or from November 11 to November 13, 2002, a group from the NPUM conducted an external performance audit. The audit revealed the petitioner's autocratic management style, like making major decisions without the approval or recommendation of the proper committees, including the Finance Committee; and that he had himself done the canvassing and purchasing of materials and made withdrawals and reimbursements for expenses without valid supporting receipts and without the approval of the Finance Committee. The audit concluded that he had

committed serious violations of fundamental rules and procedure in the disbursement and use of funds.

The NPUM Executive Committee and the Board of Trustees decided to immediately request the services of the General Conference Auditing Service (GCAS) to determine the veracity of the audit findings. Accordingly, GCAS auditors worked in the campus from December 4 to December 20, 2002 to review the petitioner's transactions during the period from April 2002 to October 2002. On December 20, 2002, CGAS auditors reported the results of their review, and submitted their observations and recommendations to the Board of Trustees.

Upon receipt of the CGAS report that confirmed the initial findings of the auditors on January 8, 2003, the NPUM informed the petitioner of the findings and required him to explain.

On January 15, 2003, Chairman Dayson and the NPUM Treasurer likewise informed the petitioner inside the NPUM office on the findings of the auditors in the presence of the AUP Vice-President for Financial Affairs, and reminded him of the possible consequences should he fail to satisfactorily explain the irregularities cited in the report. He replied that he had already prepared his written explanation.

The Board of Trustees set a special meeting at 2 p.m. on January 22, 2003. Being the Secretary, the petitioner himself prepared the agenda and included an item on his case. In that meeting, he provided copies of the auditors' report and his answers to the members of the Board of Trustees. After hearing his explanations and oral answers to the questions raised on issues arising from the report, the members of the Board of Trustees requested him to leave to allow them to analyze and evaluate the report and his answers. Despite a long and careful deliberation, however, the members of the Board of Trustees decided to adjourn that night and to set another meeting in the following week considering that the meeting had not been specifically called for the purpose of deciding his case. The adjournment would also allow the Board of Trustees more time to ponder on the commensurate disciplinary measure to be meted on him.

On January 23, 2003, Chairman Dayson notified the petitioner in writing that the Board of Trustees would hold in abeyance its deliberation on his answer to the auditors' report and would meet again at 10:00 a.m. on January 27, 2003. Chairman Dayson indicated that some sectors in the campus had not been properly represented in the January 22, 2003 special meeting, and requested the petitioner as Secretary to ensure that all sectors are duly represented in the next meeting of the Board of Trustees.^[3]

In the January 27, 2003 special meeting, the petitioner sent a letter to the Board of Trustees. The members, by secret ballot, voted to remove him as President because of his serious violations of fundamental rules and procedures in the disbursement and use of funds as revealed by the special audit; to appoint an interim committee consisting of three members to assume the powers and functions of the President; and to recommend him to the NPUM for consideration as Associate Director for Secondary Education.^[4]

On January 28, 2003, the petitioner was handed inside the NPUM office a letter,

together with a copy of the minutes of the special meeting held the previous day. In turn, he handed to Chairman Dayson a letter requesting two weeks within which to seek a reconsideration, stating that he needed time to obtain supporting documents because he was then attending to his dying mother.^[5]

In the evening of January 28, 2003, the Board of Trustees, most of whose members had not yet left Cavite, reconvened to consider and decide the petitioner's request for reconsideration. During the meeting, he made an emotional appeal to allow him to continue as President, promising to immediately vacate his office should he again commit any of the irregularities cited in the auditors' report. He added that should the Board of Trustees not favor his appeal, he would settle for a retirement package for him and his wife and would leave the church.

The Board of Trustees denied the petitioner's request for reconsideration because his reasons were not meritorious. Board Member Elizabeth Role served the notice of the denial on him the next day, but he refused to receive the notice, simply saying *Alam ko na yan*.^[6]

The petitioner later obtained a copy of the inter-school memorandum dated January 31, 2003 informing AUP students, staff, and faculty members about his relief as President and the appointment of an interim committee to assume the powers and duties of the President.

On February 4, 2003, the petitioner brought his suit for injunction and damages in the RTC, with prayer for the issuance of a temporary restraining order (TRO), impleading AUP and its Board of Trustees, represented by Chairman Dayson, and the interim committee. His complaint alleged that the Board of Trustees had relieved him as President without valid grounds despite his five-year term; that the Board of Trustees had thereby acted in bad faith; and that his being denied ample and reasonable time to present his evidence deprived him of his right to due process.^[7]

The suit being intra-corporate and summary in nature, the application for TRO was heard by means of affidavits. In the hearing of February 7, 2003, the parties agreed not to harass each other. The RTC used the mutual agreement as its basis to issue a *status quo* order on February 11, 2003.^[8]

In their answer with counterclaim, the respondents denied the allegations of the petitioner, and averred that he had been validly removed for cause; and that he had been granted ample opportunity to be heard in his defense.^[9]

Order of the RTC

On March 21, 2003, after summary hearing, the RTC issued the TRO enjoining the respondents and persons acting for and in their behalf from implementing the resolution removing him as President issued by the Board of Trustees during the January 27, 2003 special meeting, and enjoining the interim committee from performing the functions of President of AUP. The RTC did not require a bond.^[10]

After further hearing, the RTC issued on April 25, 2003 its controversial order,^[11] granting the petitioner's application for a writ of preliminary injunction. It thereby

resolved three issues, namely: (a) whether the special board meetings were valid; (b) whether the conflict-of-interest provision in the By-Laws and Working Policy was violated; and (c) whether the petitioner was denied due process. It found for the petitioner upon all the issues. On the first issue, it held that there was neither a written request made by any two members of the Board of Trustees nor proper notices sent

to the members as required by AUP's By-Laws, which omissions, being patent defects, tainted the special board meetings with nullity. Anent the second issue, it ruled that the purchase of coco lumber from his *balae* (i.e., mother-in-law of his son) was not covered by the conflict-of-interest provision, for AUP's Model Statement of Acceptance form mentioned only the members of the immediate family and did not extend to the relationship between him and his *balae*. On the third issue, it concluded that he was deprived of due process when the Board of Trustees refused to grant his motion for reconsideration and his request for additional time to produce his evidence, and instead immediately implemented its decision by relieving him from his position without according him the treatment befitting a university President.

Proceedings in the CA

With the Interim Rules for Intra-Corporate Controversies prohibiting a motion for reconsideration, the respondents forthwith filed a petition for *certiorari* in the CA,^[12] contending that the petitioner's complaint did not meet the requirement that an injunctive writ should be anchored on a legal right; and that he had been merely appointed, not elected, as President for a term of office of only two years, not five years, based on AUP's amended By-Laws.

In the meanwhile, on September 17, 2003, the petitioner filed a supplemental petition in the CA,^[13] alleging that after the commencement of his action, he filed in the RTC an urgent motion for the issuance of a second TRO to enjoin the holding of an AUP membership meeting and the election of a new Board of Trustees, capitalizing on the admission in the respondents' answer that he had been elected in 2001 to a five-year term of office. He argued that the admission estopped the respondents from insisting to the contrary.

The respondents filed in the CA a verified urgent motion for a TRO and to set a hearing on the application for preliminary injunction to enjoin the RTC from implementing the assailed order granting a writ of preliminary injunction and from further proceeding in the case. The petitioner opposed the motion for TRO, but did not object to the scheduling of preliminary injunctive hearings.

On February 24, 2004, the CA issued a TRO to enjoin the RTC from proceeding for a period of 60 days, and declared that the prayer for injunctive relief would be resolved along with the merits of the main case.

The petitioner sought a clarification of the TRO issued by the CA, considering that his cause of action in his petitions to cite the respondents in indirect contempt dated March 5, 2004 and March 16, 2004 filed in the RTC involved the election of a certain Robin Saban as the new President of AUP in blatant and malicious violation of the writ of preliminary injunction issued by the RTC. In clarifying the TRO, the CA

explained that it did not go beyond the reliefs prayed for in the respondents' motion for TRO and preliminary injunctive hearings.

On August 5, 2004, the CA rendered its decision nullifying the RTC's writ of preliminary injunction. It rejected the petitioner's argument that Article IV, Section 3 of AUP's Constitution and By-Laws and Working Policy of the Conference provided a five-year term for him, because the provision was inexistent. It ruled that the petitioner's term of office had expired on January 22, 2003, or two years from his appointment, based on AUP's amended By-Laws; that, consequently, he had been a mere *de facto* officer appointed by the members of the Board of Trustees; and that he held no legal right warranting the issuance of the writ of preliminary injunction.

The CA declared that the rule on judicial admissions admitted of exceptions, as held in *National Power Corporation v. Court of Appeals*,^[14] where the Court held that admissions were not evidence that prevailed over documentary proof; that the petitioner's being able to answer the results of the special audit point-by-point belied his allegation of denial of due process; that AUP was the party that stood to be injured by the issuance of the injunctive writ in the form of a "demoralized administration, studentry, faculty and staff, sullied reputation, and dishonest leadership;" and that the assailed RTC order sowed confusion and chaos because the RTC thereby chose to subordinate the interest of the entire AUP community to that of the petitioner who had been deemed not to have satisfied the highest ideals required of his office.

Issues

Undeterred, the petitioner has appealed, contending that:

I.

THE COURT OF APPEALS HAS DECIDED CONTRARY TO LAW AND JURISPRUDENCE WHEN IT RULED THAT THE EXTRAORDINARY WRIT OF CERTIORARI APPLIED IN THE CASE AT BAR.

II.

THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH THE ESTABLISHED LAW AND JURISPRUDENCE THAT "ADMISSIONS, VERBAL OR WRITTEN, MADE BY A PARTY IN THE COURSE OF THE PROCEEDINGS IN THE SAME CASE, DOES NOT REQUIRE PROOF," BY REQUIRING PETITIONER BARAYUGA TO PRESENT EVIDENCE THAT HIS TERM AS PRESIDENT OF AUP IS FOR FIVE (5) YEARS.

III.

THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH LAW AND ESTABLISHED FACTS WHEN IT RULED THAT PETITIONER BARAYUGA HAS ONLY A TERM OF TWO (2) YEARS INSTEAD OF FIVE (5) YEARS AS CLEARLY ADMITTED BY PRIVATE