

Hazel Ma. C. Antolin, *Petitioner vs. Abelardo T. Domondon, Jose A. Gangan and Violeta J. Josef, Respondents, G.R. No. 165036; 5 July 2010*

Hazel Ma. C. Antolin, *Petitioner vs. Antonieta Fortuna-Ibe, Respondent, G.R. No. 175705; 5 July 2010*

Facts: Hazel Ma. C. Antolin (Petitioner) failed the Certified Public Accountant (CPA) Licensure Exam she took in October 1997. Convinced she deserved to pass the Exam, she wrote to the Board of Accountancy (Board), requesting that her answer sheets be re-corrected. She was shown her answer sheets but since these showed only shaded marks, she was unable to determine why she failed the Exam. Consequently, she asked the Board for copies of the questionnaire, her answer sheets, the answer keys and an explanation of the grading system (collectively, the Examination Papers). Her request was denied on two grounds: (1) Section 36, Article III of the Rules and Regulations Governing the Regulation and Practice of Professionals, as amended by Professional Regulation Commission (PRC) Resolution No. 332, series of 1994, only allowed access to her answer sheets, and reconsideration of the result of her examination can be made only on grounds of mechanical error in the grading of the answer sheets, or malfeasance; and (2) the Board was precluded from releasing the Examination Papers (other than the answer sheets) by Section 20, Article IV of PRC Resolution No. 338, series of 1994. The Board later informed her that her exam was investigated and no mechanical error was found in the grading.

Petitioner filed a Petition for Mandamus with Damages, with application for preliminary mandatory injunction, against the Board and its members before the Regional Trial Court (RTC), praying that the Board provide her with all documents that would show whether the Board fairly administered the exam and correctly graded her answers, and if warranted, to issue to her a certificate of registration as a CPA. She later amended her Petition to clarify that she only wanted access to the documents requested, not re-correction of her exam, deleting in the process her original prayer for issuance of a certificate of registration as CPA.

Petitioner passed the May 1998 CPA Licensure Exam and took her oath as a CPA. Consequently, the RTC denied her application for mandatory injunction for being moot. She amended her Petition a second time to implead the PRC and to ask, in addition to access to the documents she had requested, that if warranted, appropriate revisions in the October 1997 Exam results be made by the Board and the PRC. The RTC considered the matter moot and dismissed the petition. On her motion, however, the RTC reconsidered the dismissal, holding that her passing of the subsequent CPA examination did not render the petition moot because the relief “and if warranted, to issue to her a certificate of registration as Certified Public Accountant” was deleted from the original petition. As regards whether she had the constitutional right to have access to the documents she requested, the RTC resolved to let the parties first adduce evidence, and to have PRC air its side of the case. The RTC also ordered the PRC to preserve and safeguard the questionnaire, petitioner’s answer sheets, and the answer keys for the October 1997 CPA Licensure Exam.

When their motion for reconsideration was denied, respondents brought the case to the Court of Appeals (CA) which set aside the RTC’s decision and ordered the dismissal of the case because: (1) the petition was mooted when petitioner passed the May 1998 CPA exam; (2) Section 20, Article IV of PRC Resolution No. 338, series of 1994, constituted a valid limitation on her right to information and access to government documents; (3) the Examination Documents were not of public concern, because she merely sought review of her failing marks; (4) it was not the ministerial or mandatory function of the respondents to review and reassess the answers to examination questions of a failing examinee; and (5) she failed to exhaust administrative remedies when she did not elevate the matter to the PRC before seeking judicial intervention. Petitioner, thus, brought the matter to the Supreme Court.

Issues: (1) Whether or not petitioner may seek judicial intervention to compel the re-correction of her examination; (2) Whether or not petitioner failed to exhaust the administrative remedies; (3) Whether or not the case was mooted by petitioner’s passing the May 1998 CPA Licensure Examination; and (4) Whether or not petitioner has the constitutional right to have access to the Examination Papers.

Held: (1) Any claim for re-correction or revision of petitioner’s 1997 examination cannot be compelled by mandamus. In *Agustin-Ramos vs. Sandoval* [G.R. No. 84470, February 2, 1989 (Minute Resolution)], where the respondent Judge was questioned for dismissing therein petitioners’ mandamus action to compel the Medical Board of Examiners and the Professional Regulation Commission to re-correct their ratings, the Supreme Court held that “(t)he function of reviewing and re-assessing the petitioners’ answers to the examination questions, in the light of the facts and arguments presented by them x x x is a discretionary function of the Medical Board, not a ministerial and mandatory one, hence, not within the scope of the writ of mandamus.”

For a writ of mandamus to issue, the applicant must have a well-defined, clear, and certain legal right to the thing demanded. The corresponding duty of the respondent to perform the required act must be equally clear. No such clarity exists here. And despite petitioner's assertion that she did not demand re-correction, the most cursory perusal of her Second Amended Petition and her prayer that respondents "make the appropriate revisions on the results of her examination" belied this claim.

(2) Like the claimants in *Agustin*, petitioner's remedy from the Board's refusal to release the Examination Papers should have been through an appeal to the PRC. Under Section 5(c) of Presidential Decree No. 223, the PRC has the power to review and approve the policies, resolutions, rules and regulations, orders and decisions of the various professional Boards, including the results of their licensure examinations, and the decisions of the Boards on administrative cases shall be final and executory unless appealed to the PRC within 30 days from promulgation. Contrary to petitioner's claim, this power is not limited to administrative investigations but encompasses requests for documents. And since the PRC itself issued the resolution (PRC Resolution No. 338) questioned by petitioner, it was in the best position to resolve questions addressed to its area of expertise.

One of the reasons for exhaustion of administrative remedies is the well-entrenched doctrine on separation of powers, which enjoins upon the Judiciary a becoming policy of non-interference with matters falling primarily (albeit not exclusively) within the competence of other departments. However, the principle of exhaustion of administrative remedies is subject to exceptions, among which is when only a question of law is involved.

Whether or not petitioner had a constitutional right to demand access to the Examination Papers was one such question of law which cannot be resolved with finality by the administrative officer.

(3) An issue becomes moot and academic when it ceases to present a justiciable controversy, so that a declaration on the issue would be of no practical use or value.

In this jurisdiction, any citizen may challenge any attempt to obstruct the exercise of his or her right to information and may seek its enforcement by mandamus. And since every citizen possesses the inherent right to be informed by the mere fact of citizenship, petitioner's belated passing of the CPA Board Exams did not automatically mean that her interest in the Examination Papers had become mere superfluity. Undoubtedly, the constitutional question presented, in view of the likelihood that the issues in this case would be repeated, warranted review.

(4) Like all the constitutional guarantees, the right to information is not absolute; it is limited to "matters of public concern" and is further "subject to such limitations as may be provided by law" (*Section 7, Article III, 1987 Constitution*). Similarly, the State's policy of full disclosure is limited to "transactions involving public interest," and is "subject to reasonable conditions prescribed by law" (*Sec. 28, Art. II, 1987 Constitution*). The Court has always grappled with the meanings of "public interest" and "public concern" which "embrace a broad spectrum of subjects which the public may want to know, either because these directly affect their lives, or simply because such matters naturally arouse the interest of an ordinary citizen," and which are, in the final analysis, up to the courts to determine on a case by case basis [*Legaspi v. Civil Service Commission, 234 Phil. 521, 535 (1987)*].

National board examinations such as the CPA Board Exams are matters of public concern. The populace in general, and the examinees in particular, would understandably be interested in the fair and competent administration of these exams in order to ensure that only those qualified are admitted into the accounting profession. And as with all matters pedagogical, these examinations could be not merely quantitative means of assessment, but also means to further improve the teaching and learning of the art and science of accounting.

The Court, nonetheless, realizes that there may be valid reasons to limit access to the Examination Papers in order to properly administer the exam. More than the mere convenience of the examiner, it may well be that there exist inherent difficulties in the preparation, generation, encoding, administration, and checking of these multiple choice exams that require that the questions and answers remain confidential for a limited duration. The PRC, however, had not been given an opportunity to explain the reasons behind their regulations or articulate the justification for keeping the Examination Papers confidential.

In view of the far-reaching implications of this case, which may impact on every board examination administered by the PRC, and in order that all relevant issues may be ventilated, the Court deemed it best to remand the case to the RTC for further proceedings.

Ponente: J. Mariano C. del Castillo