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FIRST DIVISION

[G.R. No. 174996. December 3, 2014]

BRO. BERNARD OCA, FSC, BRO. DENNIS MAGBANUA, FSC, MRS. CIRILA MOJICA, MRS. JOSEFINA PASCUAL and ST. FRANCIS SCHOOL OF GENERAL TRIAS, CAVITE, INC., *petitioners, vs.* **LAURITA CUSTODIO,** *respondent.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; BILL OF RIGHTS; RIGHT TO DUE PROCESS; NO DENIAL OF DUE PROCESS WHERE A PARTY WAS GIVEN THE OPPORTUNITY TO BE HEARD, EITHER THROUGH VERBAL ARGUMENTS OR PLEADINGS WHERE THE PARTY CAN PRESENT ITS SIDE OR DEFEND ITS INTEREST IN DUE COURSE.— In the case of *Garcia v. Executive Secretary*, we reiterated what grave abuse of discretion means in this jurisdiction, to wit: Grave abuse of discretion means such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be grave abuse of discretion, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law. With regard to the right to due process, we have emphasized in jurisprudence that while it is true that the right to due process safeguards the opportunity to be heard and to submit any evidence one may have in support of his claim or defense, the Court has time and again held that where the opportunity to be heard, either through verbal arguments or pleadings, is accorded, and the party can "present its side" or defend its "interest in due course," there is no denial of due process because what the law proscribes is the lack of opportunity to be heard. In the case at bar, we find that petitioners were not denied due process by the trial court when it issued the assailed Orders dated August 5, 2003, August 21, 2003 and October 8, 2003. The records would show that petitioners were given the

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opportunity to ventilate their arguments through pleadings and that the same pleadings were acknowledged in the text of the questioned rulings. Thus, petitioners cannot claim grave abuse of discretion on the part of the trial court on the basis of denial of due process.

2. REMEDIAL LAW; INTERIM RULES OF PROCEDURE FOR INTRA-CORPORATE CONTROVERSIES; PETITIONERS FAILED TO COMPLY WITH THE PERTINENT PROCEDURAL RULES REGARDING THE ISSUANCE OF A *STATUS QUO* ORDER.— However, with respect to the assailed *Status Quo* Order dated August 21, 2003, we find that the trial court has failed to comply with the pertinent procedural rules regarding the issuance of a *status quo* order. Jurisprudence tells us that a *status quo* order is merely intended to maintain the last, actual, peaceable and uncontested state of things which preceded the controversy. It further states that, unlike a temporary restraining order or a preliminary injunction, a *status quo* order is more in the nature of a cease and desist order, since it neither directs the doing or undoing of acts as in the case of prohibitory or mandatory injunctive relief. Pertinently, the manner of the issuance of a *status quo* order in an intra-corporate suit such as the case at bar is governed by Section 1, Rule 10 of the Interim Rules of Procedure for Intra-Corporate Controversies. x x x In the case before us, the trial court's August 21, 2003 *Status Quo* Order conflicted with the rules and jurisprudence in the following manner: First, the directive to reinstate respondent to her former position as school director and curriculum administrator is a command directing the undoing of an act already consummated which is the exclusive province of prohibitory or mandatory injunctive relief and not of a *status quo* order which is limited only to maintaining the last, actual, peaceable and uncontested state of things which immediately preceded the controversy. It must be remembered that respondent was already removed as trustee, member of the corporation and curriculum administrator by the Board of Trustees of St. Francis School of General Trias, Cavite, Inc. months prior to her filing of the present case in the trial court. Second, the trial court's omission of not requiring respondent to file a bond before the issuance of the *Status Quo* Order dated August 21, 2003 is in contravention with the express instruction of Section 1, Rule 10 of the Interim Rules of Procedure for Intra-Corporate Controversies. Even the subsequent order to

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post a bond as indicated in the assailed October 8, 2003 Order did not cure this defect because a careful reading of the nature and purpose of the bond would reveal that it was meant by the trial court as security solely for the teachers' retirement fund, the possession of which was given by the trial court to respondent and Reynante. It was never intended and can never be considered as the requisite security, in compliance with the express directive of procedural law, for the assailed S*tatus Quo* Order dated August 21, 2003. In any event, there is nothing on record to indicate that respondent had complied with the posting of the bond as directed in the October 8, 2003 Order except for the respondent's unsubstantiated claim to the contrary as asserted in her Memorandum. Third, it is settled in jurisprudence that an application for a *status quo* order which in fact seeks injunctive relief must comply with Section 4, Rule 58 of the Rules of Court: *i.e.*, the application must be verified aside from the posting of the requisite bond. In the present case, the Manifestation and Motion, through which respondent applied for injunctive relief or in the alternative a *status quo* order, was merely signed by her counsel and was unverified. In conclusion, we rule that no grave abuse of discretion was present in the issuance of the assailed August 5, 2003 and October 8, 2003 Orders of the trial court. However, we find that the issuance of the assailed August 21, 2003 *Status Quo* Order was unwarranted for non-compliance with the rules. Therefore, the said *status quo* order must be set aside.

APPEARANCES OF COUNSEL

Puyat Jacinto & Santos for petitioners.
Hernandez Grimares & Manzano Law Offices for respondent.

D E C I S I O N

LEONARDO-DE CASTRO, *J.*:

Before this Court is a petition for review under Rule 45 of the 1997 Rules of Civil Procedure assailing the Decision[1] dated

[1] *Rollo*, pp. 9-27; penned by Presiding Justice Romeo A. Brawner with Associate Justices Edgardo P. Cruz and Jose C. Mendoza (now Supreme Court Associate Justice), concurring.

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September 16, 2005 as well as the Resolution[2] dated October 9, 2006 of the Court of Appeals in CA-G.R. SP No. 79791, entitled "*Bro. Bernard Oca, FSC, Bro. Dennis Magbanua, FSC, Mrs. Cirila Mojica, Mrs. Josefina Pascual and St. Francis School of General Trias, Cavite, Inc. v. Hon. Norbert J. Quisumbing, Jr., in his capacity as Presiding Judge, Regional Trial Court, Branch 21, Imus, Cavite, and Mrs. Laurita Custodio*". Through said rulings, the appellate court dismissed the petition for *certiorari* under Rule 65 with application for the issuance of a temporary restraining order and/or writ of preliminary injunction against the Orders dated August 5, 2003,[3] August 21, 2003[4] and October 8, 2003[5] issued by Branch 21 of the Regional Trial Court (RTC) of Imus, Cavite in SEC Case No. 024-02, entitled "*Laurita Custodio, plaintiff, versus Bro. Bernard Oca, Bro. Dennis Magbanua, Mrs. Cirila Mojica, Mrs. Josefina Pascual, and St. Francis School, defendants.*"

The factual backdrop of the case

The facts of this case, as narrated in the assailed September 16, 2005 Decision of the Court of Appeals, are as follows:

> On July 9, 1973, petitioner St. Francis School of General Trias Cavite, Inc. (School) was organized and established as a non-stock and non-profit educational institution. The organization and establishment of the school was accomplished through the assistance of the La Salle Brothers without any formal agreement with the School. Thus, the incorporators of the School consist of the following persons: private respondent Custodio, petitioner Cirila Mojica (Mojica), petitioner Josefina Pascual (Pascual), Rev. Msgr. Feliz Perez, Bro. Vernon Poore, FSC. The five original incorporators served as the School's Members and Board of Trustees until the deaths of Bro. Poore and Msgr. Perez.

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[2] *Id*. at 29-30; penned by Associate Justice Jose C. Mendoza (now a member of this Court) with Associate Justices Edgardo P. Cruz and Lucenito N. Tagle, concurring.

[3] *Id*. at 169-171.

[4] *Id*. at 172-173.

[5] *Id*. at 458-459.

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On September 8, 1988, to formalize the relationship between the De La Salle Greenhills (DLSG) and the School, a Memorandum of Agreement (MOA) was executed. This agreement permitted DLSG to exercise supervisory powers over the School's academic affairs. Pursuant to the terms of the MOA, DLSG appointed supervisors who sit in the meetings of the Board of Trustees without any voting rights. The first such supervisor was Bro. Victor Franco. Later on, Bro. Franco also became a member of the Board of Trustees and President of the School. Then, on September 8, 1998, petitioner Bro. Bernard Oca joined Bro. Franco as DLSG supervisor. In a while, Bro. Oca also served as a member of the Board of Trustees and President of the School. Bro. Dennis Magbanua also joined Bro. Franco and Bro. Oca as DLSG supervisor and also as a Treasurer of the School.

Petitioners declare that the membership of the DLSG Brothers in the Board of Trustee[s] as its officers was valid since an election was conducted to that effect.

On the other hand, Custodio challenges the validity of the membership of the DLSG Brothers and their purported election as officers of the School. The legality of the membership and election of the DLSG Brothers is the main issue of the case in the lower court.

Custodio alleges that sometime in 1992, Bro. Franco was invited by Mrs. Mojica to act as President of the School. This is because there was only the Tres Marias (referring to the original incorporators, Pascual, Mojica and Custodio) who [were] left to manage the affairs of the school. Bro. Franco accepted the invitation. However, while Bro. Franco acted as President and presided over meetings of the Tres Marias, he never participated in the operation of the School and never exercised voting rights.

Custodio further alleges that on September 8, 1998, during one of the informal meetings held at the School, Bro. Franco unilaterally declared the said meeting as the Board of Trustees' Meeting and at the same time an Annual Meeting of the Members of the Corporation. During the meeting, Bro. Franco declared that the corporation is composed of the Tres Marias and their husbands, Dr. Castaneda and himself (Bro. Franco) as members. On the other hand, the Board of Trustees was declared to be composed of Bro. Oca, the Tres Marias and himself (Bro. Franco).

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According to Custodio, when Bro. Franco eventually left and became inactive in the School, Bro. Oca assumed his position as President and Chairman of the Board of Trustees, without being formally admitted as member of the School and without the benefit of an actual election.

Custodio further states that on December 6, 2000, Bro. Magbanua was introduced to the original incorporators for the first time. Automatically, he was declared as Member of the School and at the same time, Treasurer by Bro. Oca, also without any formal admission into the corporate membership and without the benefit of an actual election.

Custodio alleges that clearly the composition of the membership of the School had no basis there being no formal admission as members nor election as officers.

It appears that the legality of the membership and assumption as officers of the DLSG Brothers was questioned by Custodio following a disagreement regarding a proposed MOA that would replace the existing MOA with the DLSG Brothers and her removal as Curriculum Administrator through the Board of Trustee[s].

Under the proposed MOA, DLSG will supervise and control not only the academic affairs of the School but also the matters of the finance, administration and operations of the latter. Custodio vigorously opposed the proposed MOA. Consequently, unable to convince Custodio and the academic populace to accept the MOA, the DLSG brothers withdrew [their] academic support from the School. A day after the rejection of the proposed MOA, Mojica and Pascual retired as Administrators for Finance and Physical Resource Development (PRD), respectively. However, they maintained their positions as Members and Trustees of the School.

Custodio contends that while Pascual and Mojica remained to be Members and Trustees of the School, upon retirement, they stopped reporting for work. Mr. Al Mojica, son of Mrs. Mojica, who was then the school cashier, also stopped reporting for work. Thus, Custodio avers that being the only remaining Administrator, she served as the Over-all Director of the School. Being the Over-all Director, Custodio made appointments to fill in the vacuum created by the sudden retirement of Pascual and Mojica. Hence, she appointed Mr. Joseph Custodio as OIC both for Finance and PRD and [Ms. Herminia] Reynante as Cashier.

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Upon the appointment of Joseph Custodio and Reynante, a special meeting was called by Bro. Oca in which the petitioners alleged that the prior organizational structure was restored, and the retirement of Pascual and Mojica disapproved by proper corporate action. It was agreed to in the meeting that the school was going to revert to the three-man co-equal structure with Pascual as PRD head, Mojica as Finance head and Custodio as Curriculum Administrator.

In the same meeting, petitioners alleged that Custodio admitted to having opened an account with the Luzon Development Bank in her own name for the alleged purpose of depositing funds for and in behalf of the School. Petitioners alleged that a directive was issued for the immediate closing of this account. Still, Custodio refused to close such account.

Subsequently, on January 31, 2002, Mojica and Pascual formally resigned from their administrative posts. As such as a replacement, Atty. Eleuterio A. Pascual and Mr. Florante N. Mojica[,] Jr. were appointed by the Board of Trustees as PRD Administrator and Finance Administrator respectively.

According to petitioners, due to the repeated refusal of Custodio to close the account she opened in her own name with the Luzon Development Bank, the Board of Trustees, in a meeting held on March 7, 2002, approved a resolution to file a case against the latter. Consequently, the Board of Trustees also approved resolutions to the effect that Custodio, Mr. Joseph Custodio and Reynante be stopped from performing their functions in the School.

On June 7, 2002, Custodio filed a Complaint in the RTC of Trece Martirez City, questioning the legality of the Board of the School. The case was docketed as Civil Case No. TMCV-0033-02, entitled *Laurita Custodio v. Bro. Bernard Oca, et al.* Custodio prayed for the issuance of a temporary restraining order and/or writ of preliminary injunction for the purpose of preventing Bro. Oca as President of the corporation, from calling a special membership meeting to remove Custodio as Member of the School and the Board of Trustees. The case was dismissed on July 4, 2002.[6]

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[6] The trial court found that the case was not in reality a case for injunction but for *quo warranto* and thus dismissed the case. In any event, private respondent allegedly withdrew her Motion for Reconsideration of the dismissal order after learning that said court had no jurisdiction since it was not designated as a special commercial court. (*Id.* at 10-14.)

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Summary of the legal proceedings involved in the present controversy

On July 8, 2002, the Board of Trustees of St. Francis School resolved to remove respondent Laurita Custodio as a member of the Board of Trustees and as a member of the Corporation pursuant to Sections 28 and 91 of the Corporation Code as indicated in Resolution No. 011-2002.[7]

Subsequently, respondent was issued a Memorandum dated July 23, 2002 and signed by petitioner Bro. Bernard Oca, in his capacity as Chairman of the Board of Trustees, wherein she was informed of her immediate removal as Curriculum Administrator of St. Francis School on the grounds of willful breach of trust and loss of confidence and for failure to explain the charges against her despite notice from the Board of Trustees.[8]

In reaction to her removal, respondent filed with the trial court, on October 3, 2002, a Complaint with Prayer for the Issuance of a Preliminary Injunction against petitioners again assailing the legality of the membership of the Board of Trustees of St. Francis School.[9]

During the submission of pleadings, respondent filed a Manifestation and Motion. She alleged that on October 8, 2002, her son, Joseph Custodio, was being prevented from entering the premises of the school. Also, respondent alleges that a meeting with the parents of the School's students was convened wherein the parents were informed that she had been removed as Member of the corporation and the Board of Trustees, and as Curriculum Administrator. As such, petitioners directed the parents to give all payments regarding matriculation and other fees to the corporate treasurer.[10]

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[7] *Id.* at 270-271.

[8] *Id.* at 211.

[9] *Id.* at 212-236.

[10] *Id.* at 303-307.

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On October 14, 2002, respondent filed another Motion for Clarification asking the trial court to issue an order as to whom the matriculation fees should be paid pending the hearing of the complaint and the earlier Manifestation and Motion.[11]

Acting on the motions filed by respondent, the trial court in an Order dated October 21, 2002, appointed Herminia Reynante (Reynante) as cashier of the school and required all parties to turn over all money previously collected with respect to matriculation fees and other related collectibles of the school to the latter.[12]

At this point, it should be noted that petitioners Cirila Mojica and Josefina Pascual put up another school called the Academy of St. John with the same structure as petitioner St. Francis School. This fact was testified to by petitioners' counsel Atty. Armando Fojas during the preliminary hearings on the main case.[13]

On October 30, 2002, petitioners filed a Motion for Reconsideration seeking to set aside the October 21, 2002 Order of the trial court. Petitioners aver that had they been given an opportunity to be heard and to present evidence to oppose the appointment of Reynante, proof would have been adduced to demonstrate the latter's lack of moral integrity to act as court appointed cashier.[14]

Subsequently, on February 19, 2003, petitioners filed a Manifestation informing the trial court that in compliance with its October 21, 2002 Order, they took steps to turn over the amount of ₱397,127.64, representing collections from matriculation fees, but the same was not accepted by the court appointed cashier, Reynante, who preferred to receive the amount in cash.[15]

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[11] *Id.* at 308-310.

[12] *Id.* at 313.

[13] TSN, June 17, 2003, pp. 10-21.

[14] *Rollo*, pp. 314-320.

[15] *Id.* at 321-322.

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On February 26, 2003, respondent filed her Comment in which she averred that contrary to petitioners' claim, petitioners had not complied with the October 21, 2002 Order for failure to include in their accounting, the funds allegedly in Special Savings Deposit No. 239 and Special Savings Deposit No. 459 or the retirement fund for the teachers of the School, amounts paid by the canteen concessionaire, and amounts paid to three resigned teachers.[16]

In an Order[17] dated March 24, 2003, the trial court acted upon petitioners' February 19, 2003 Manifestation and respondent's February 26, 2003 Comment. The text of the said March 24, 2003 Order is reproduced herein:

> This treats of the defendant's explanation, manifestation and plaintiff's comment thereto.
>
> A perusal of the allegations of the defendants' pleadings shows that they merely turned-over a manager's check in the amount of ₱397,127.64 representing money collected from the students from October 2002 to December 2002. The Order of October 21, 2002 directed plaintiff and defendants, as well as Mr. Al Mojica to turn over to Ms. Herminia Reynante all money previously collected and to submit a report on what have been collected, how much, from whom and the dates collected.
>
> Defendants and Mr. Al Mojica are hereby directed, within ten days from receipt hereof, to submit a report and to turn-over to Ms. Herminia Reynante all money collected by them, more particularly:
>
> 1. ₱4,339,607.54 deposited in the Special Savings Deposit No. 239 (Rural Bank of General Trias, Inc.);
>
> 2. ₱5,639,856.11 deposited in Special Savings Deposit No. 459 (Rural Bank of General Trias, Inc.);
>
> 3. ₱92,970.00 representing amount paid by the school canteen;
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> 4. Other fees collected from January 2003 to February 19, 2003;

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[16] *Id.* at 329-338.

[17] *Id.* at 339.

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5. Accounting on how and how much defendants are paying Ms. Daisy Romero and three (3) other teachers who already resigned.[18]

On April 18, 2003, petitioners filed a Manifestation, Observation, Compliance, Exception and Motion to the March 24, 2003 Order of the trial court which contests the inclusion of specific funds to be turned over to Reynante.[19]

In the first questioned Order[20] dated August 5, 2003, the lower court denied the Manifestation and Motion of petitioners and reiterated its order for petitioners to turn over the items enumerated in its March 24, 2003 Order.

Subsequently, in the second questioned Order[21] dated August 21, 2003, the trial court, acting favorably on private respondent's October 9, 2002 Manifestation and Motion ruled:

WHEREFORE, in view of the foregoing, the motion is granted. Accordingly, a *status quo* order is hereby issued wherein the plaintiff is hereby allowed to continue discharging her functions as school director and curriculum administrator as well as those who are presently and actually discharging functions as school officer to continue performing their duties until the application for the issuance of a temporary restraining order is resolved.[22]

On September 1, 2003, petitioners filed a Motion for Clarification of the August 5, 2003 Order.[23]

In an Order[24] dated October 8, 2003, the court ruled, to wit:

WHEREFORE, in view of the foregoing, the defendants are hereby ordered to comply with the mandate contained in the order[s] dated March 24 and August 5, 2003.

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[18] *Id.*

[19] Records, Vol. I, pp. 325-337.

[20] *Rollo*, pp. 169-171.

[21] *Id.* at 172-173.

[22] *Id.* at 173.

[23] *Id.* at 174-179.

[24] *Id.* at 458-459.

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Defendants are further directed to inform the court of the total amount of the funds deposited reserved for teachers' retirement, and in what bank and under what account the same is deposited.[25]

Dissatisfied with the rulings made by the trial court, petitioners filed with the Court of Appeals a petition for *certiorari* under Rule 65 with application for the issuance of a temporary restraining order and/or writ of preliminary injunction to nullify, for having been issued with grave abuse of discretion amounting to lack or in excess of jurisdiction, the Orders dated August 5, 2003, August 21, 2003 and October 8, 2003 that were issued by the trial court.

However, the Court of Appeals frustrated petitioners' move through the issuance of the assailed September 16, 2005 Decision which dismissed outright petitioners' special civil action for *certiorari*. Petitioners moved for reconsideration but this was also thwarted by the Court of Appeals in the assailed October 9, 2006 Resolution.

Thus, petitioners filed the instant petition and submitted the following issues for consideration in their Memorandum[26] dated October 3, 2007:

A.

WHETHER OR NOT THE COURT OF APPEALS, CONTRARY TO LAW AND JURISPRUDENCE, COMMITTED REVERSIBLE ERROR IN RULING THAT THE TRIAL COURT HAD NOT DEPRIVED PETITIONERS OF DUE PROCESS IN ISSUING ITS ORDERS OF 5 AUGUST 2003, 21 AUGUST 2003 AND 8 OCTOBER 2003.

B.

WHETHER OR NOT THE COURT OF APPEALS, CONTRARY TO LAW AND JURISPRUDENCE, COMMITTED REVERSIBLE ERROR IN RULING THAT THE TRIAL COURT DID NOT GRAVELY ABUSE ITS DISCRETION IN DISREGARDING THE PROVISIONS OF THE INTERIM RULES OF PROCEDURE FOR INTRA-CORPORATE

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[25] *Id.* at 459.

[26] *Id.* at 639-679.

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CONTROVERSIES PERTAINING TO THE ISSUANCE OF A *STATUS QUO* ORDER AND THE REQUIREMENTS THEREOF.[27]

On the other hand, respondent puts forward the following arguments in her Memorandum[28] dated October 9, 2007:

THE HONORABLE COURT OF APPEALS WAS CORRECT WHEN IT RULED THAT THE TRIAL COURT (RTC Br. 21) HAD NOT DEPRIVED PETITIONERS OF DUE PROCESS IN ISSUING ITS ORDERS OF 5 AUGUST 2003, 21 AUGUST 2003 AND 8 OCTOBER 2003.

THE HONORABLE COURT OF APPEALS WAS CORRECT WHEN IT RULED THAT THE TRIAL COURT (RTC Br. 21) DID NOT COMMIT GRAVE ABUSE OF DISCRETION WHEN IT ISSUED A *STATUS QUO* ORDER.[29]

In fine, the sole issue in this case is whether or not the trial court committed grave abuse of discretion in issuing the assailed Orders dated August 5, 2003, August 21, 2003 and October 8, 2003.

Petitioners argue that the Court of Appeals, in its assailed September 16, 2005 Decision, failed to consider that no adequate proceedings had been accorded to the petitioners by the trial court for the exercise of its right to be heard on the matters subject of the questioned Orders. Furthermore, petitioners point out that the Court of Appeals erroneously gave its *imprimatur* to the trial court's issuance of the assailed *Status Quo* Order dated August 21, 2003 without first requiring and accepting from respondent the requisite bond that is required under the Interim Rules of Procedure for Intra-Corporate Controversies.

On the other hand, respondent maintains that the manner of the issuance of the assailed Orders of the trial court did not violate the due process rights of petitioners. Respondent also claims that a valid ground for the issuance of the assailed *Status*

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[27] *Id.* at 654.

[28] *Id.* at 680-729.

[29] *Id.* at 710.

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Quo Order dated August 21, 2003 did exist and that the alleged failure of the trial court to require the posting of a bond prior to the issuance of a *status quo* order was mooted by the assailed Order dated October 8, 2003 which required respondent and Reynante to file a bond in the amount of ₱300,000.00 each.

We find the petition to be partly meritorious.

In the case of *Garcia v. Executive Secretary*,[30] we reiterated what grave abuse of discretion means in this jurisdiction, to wit:

> Grave abuse of discretion means such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be grave abuse of discretion, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.

With regard to the right to due process, we have emphasized in jurisprudence that while it is true that the right to due process safeguards the opportunity to be heard and to submit any evidence one may have in support of his claim or defense, the Court has time and again held that where the opportunity to be heard, either through verbal arguments or pleadings, is accorded, and the party can "present its side" or defend its "interest in due course," there is no denial of due process because what the law proscribes is the lack of opportunity to be heard.[31]

In the case at bar, we find that petitioners were not denied due process by the trial court when it issued the assailed Orders dated August 5, 2003, August 21, 2003 and October 8, 2003. The records would show that petitioners were given the opportunity to ventilate their arguments through pleadings and that the same pleadings were acknowledged in the text of the

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[30] G.R. No. 198554, July 30, 2012, 677 SCRA 750, 782-783.

[31] *Magtibay v. Indar*, A.M. No. RTJ-11-2271, September 24, 2012, 681 SCRA 510, 517.

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questioned rulings. Thus, petitioners cannot claim grave abuse of discretion on the part of the trial court on the basis of denial of due process.

However, with respect to the assailed *Status Quo* Order dated August 21, 2003, we find that the trial court has failed to comply with the pertinent procedural rules regarding the issuance of a *status quo* order.

Jurisprudence tells us that a *status quo* order is merely intended to maintain the last, actual, peaceable and uncontested state of things which preceded the controversy. It further states that, unlike a temporary restraining order or a preliminary injunction, a *status quo* order is more in the nature of a cease and desist order, since it neither directs the doing or undoing of acts as in the case of prohibitory or mandatory injunctive relief.[32]

Pertinently, the manner of the issuance of a *status quo* order in an intra-corporate suit such as the case at bar is governed by Section 1, Rule 10 of the Interim Rules of Procedure for Intra-Corporate Controversies which reads:

> SECTION 1. Provisional remedies. – A party may apply for any of the provisional remedies provided in the Rules of Court as may be available for the purposes. However, no temporary restraining order or *status quo* order shall be issued save in exceptional cases and only after hearing the parties and the posting of a bond.

In the case before us, the trial court's August 21, 2003 *Status Quo* Order conflicted with the rules and jurisprudence in the following manner:

First, the directive to reinstate respondent to her former position as school director and curriculum administrator is a command directing the undoing of an act already consummated which is the exclusive province of prohibitory or mandatory injunctive relief and not of a *status quo* order which is limited only to maintaining the last, actual, peaceable and uncontested state of things which immediately preceded the controversy.

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[32] *Mayor Garcia v. Hon. Mojica*, 372 Phil. 892, 900 (1999).

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It must be remembered that respondent was already removed as trustee, member of the corporation and curriculum administrator by the Board of Trustees of St. Francis School of General Trias, Cavite, Inc. months prior to her filing of the present case in the trial court.

Second, the trial court's omission of not requiring respondent to file a bond before the issuance of the *Status Quo* Order dated August 21, 2003 is in contravention with the express instruction of Section 1, Rule 10 of the Interim Rules of Procedure for Intra-Corporate Controversies. Even the subsequent order to post a bond as indicated in the assailed October 8, 2003 Order did not cure this defect because a careful reading of the nature and purpose of the bond would reveal that it was meant by the trial court as security solely for the teachers' retirement fund, the possession of which was given by the trial court to respondent and Reynante. It was never intended and can never be considered as the requisite security, in compliance with the express directive of procedural law, for the assailed S*tatus Quo* Order dated August 21, 2003. In any event, there is nothing on record to indicate that respondent had complied with the posting of the bond as directed in the October 8, 2003 Order except for the respondent's unsubstantiated claim to the contrary as asserted in her Memorandum.[33]

Third, it is settled in jurisprudence that an application for a *status quo* order which in fact seeks injunctive relief must comply with Section 4, Rule 58 of the Rules of Court: *i.e.*, the application must be verified aside from the posting of the requisite bond.[34] In the present case, the Manifestation and Motion, through which respondent applied for injunctive relief or in the alternative a *status quo* order, was merely signed by her counsel and was unverified.

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[33] *Rollo*, 724.

[34] *Prado v. Veridiano II*, G.R. No. 98118, December 6, 1991, 204 SCRA 654, 669-670. Although this case was decided under the old rules, the present rules under the 1997 Rules of Civil Procedure still require a verified application and a bond for the issuance of a writ of preliminary injunction or a temporary restraining order.

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In conclusion, we rule that no grave abuse of discretion was present in the issuance of the assailed August 5, 2003 and October 8, 2003 Orders of the trial court. However, we find that the issuance of the assailed August 21, 2003 *Status Quo* Order was unwarranted for non-compliance with the rules. Therefore, the said *status quo* order must be set aside.

At this point, the Court finds it *apropos* to note that the *Status Quo* Order on its face states that the same is effective until the application for the issuance of a temporary restraining order is resolved. However, respondent's prayer for a temporary restraining order or a writ of preliminary injunction in her Complaint still appears to be pending before the trial court. For this reason, the Court deems it necessary to direct the trial court to resolve the same at the soonest possible time.

WHEREFORE, premises considered, the petition is **PARTLY GRANTED**. The assailed Decision dated September 16, 2005 and the Resolution dated October 9, 2006 of the Court of Appeals in CA-G.R. SP No. 79791 are hereby **AFFIRMED** in part insofar as they upheld the assailed August 5, 2003 and October 8, 2003 Orders of the trial court. They are **REVERSED** with respect to the assailed August 21, 2003 *Status Quo* Order which is hereby **SET ASIDE** for having been issued with grave abuse of discretion. The trial court is further **DIRECTED** to resolve respondent's application for injunctive relief with dispatch.

SO ORDERED.

Sereno, C.J. (Chairperson), Bersamin, Perez, and *Perlas-Bernabe, JJ.,* concur.