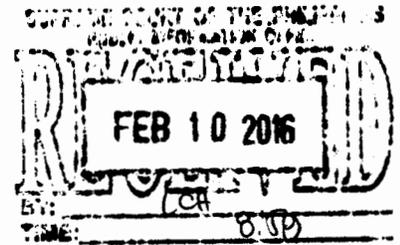




Republic of the Philippines  
 Supreme Court  
 Manila



FIRST DIVISION

ELIZABETH L. DIAZ,  
 Petitioner,

G.R. No. 171303

Present:

- versus -

LEONARDO-DE CASTRO,  
 Acting Chairperson,  
 PERALTA,\*  
 BERSAMIN,  
 PERLAS-BERNABE, and  
 JARDELEZA, JJ.

GEORGINA R. ENCANTO,  
 ERNESTO G. TABUJARA,  
 GEMINO H. ABAD and  
 UNIVERSITY OF THE  
 PHILIPPINES,  
 Respondents.

Promulgated:

JAN 20 2016

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DECISION

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

\* Per Raffle dated January 18, 2016.  
 1 Rollo, pp. 70-88; penned by Associate Justice Magdangal M. de Leon with Associate Justices Mariano C. del Castillo (now a member of this Court) and Regalado E. Maambong concurring.  
 2 Id. at 106-107.  
 3 Entitled *Elizabeth Diaz v. Georgina R. Encanto, Ernesto G. Tabujara, Gemino H. Abad, Jose V. Abueva and University of the Philippines*.  
 4 Rollo, pp. 109-167.  
 5 Id. at 168-170.

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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 1<sup>st</sup> 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

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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>]

x x x x

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.

<sup>6</sup> Id. at 124-125.

<sup>7</sup> Exhibits of Defendants, Exh. 69, p. 2251.

<sup>8</sup> Id.

<sup>9</sup> Rollo, p. 73.

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 ₱133,665.50 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 ₱300,000.00 as moral damages.
3. Ordering defendants, except the University and Abueva, to pay plaintiff, jointly and severally, the amount of ₱60,000.00 as exemplary damages.
4. Ordering defendants, except the University and Abueva, to pay plaintiff, jointly and severally, the reduced amount of ₱50,000.00 as and by way of attorney's fees.
5. Costs of suit.

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

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<sup>10</sup> Id. at 71-75.

<sup>11</sup> Id. at 166-167.

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 ₱133,665.50 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 ₱300,000.00 as moral damages.

3. Ordering defendants, except the University, Abueva and Encanto, to pay plaintiff, jointly and severally, the amount of ₱60,000.00 as exemplary damages.

4. Ordering defendants, except University, Abueva and Encanto, to pay plaintiff, jointly and severally, the reduced amount of ₱50,000.00 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.

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<sup>12</sup> Id. at 169-170.

<sup>13</sup> Id. at 169.

<sup>14</sup> Records, pp. 2,575-2,576.

<sup>15</sup> Id. at 2,361-2,362.

<sup>16</sup> Id. at 2,577-2,576.

<sup>17</sup> Id. at 2,580-2,581.

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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 WHICH HER SABBATICAL APPLICATION REMAINED UNRESOLVED; AND (III) THE WRONGFUL WITHHOLDING OF PLAINTIFF'S EARNED SALARIES IN THE THREE SUCCEEDING SEMESTERS DURING WHICH THE PLAINTIFF TAUGHT WITHOUT BEING PAID.<sup>21</sup>**

### *Ruling of the Court of Appeals*

The Court of Appeals trimmed down the issue to whether or not respondents U.P., Tabujara and Abad were negligent or acted in bad faith in denying petitioner Diaz's application for sabbatical leave and in withholding her salaries. In its Decision promulgated on April 28, 2005, it effectively reversed the decision of the RTC, viz.:

**WHEREFORE**, the appealed Decision is **REVERSED** and **SET ASIDE** and a **NEW JUDGMENT** is **RENDERED**, as follows: (1) defendant-appellant University of the Philippines, through its appropriate officials, is **DIRECTED** to pay plaintiff-appellant Elizabeth Diaz the sum of Twenty-One Thousand, Eight Hundred Seventy-Nine and 64/100 (₱21,879.64) as unpaid salaries and allowances, and (2) the sums awarded as moral and exemplary damages and attorney's fees are hereby **DELETED**. This is without prejudice to the enforcement of valid rules

<sup>18</sup> CA rollo, pp. 62-174.

<sup>19</sup> Id. at 251-326.

<sup>20</sup> Rollo, p. 71.

<sup>21</sup> CA rollo, pp. 421-422.

and regulations of the University of the Philippines pertaining to Diaz's employment status.<sup>22</sup>

The Court of Appeals found neither negligence nor bad faith on the part of the respondents in their denial of petitioner Diaz's sabbatical leave application and in withholding her salaries.

The Court of Appeals emphasized that a sabbatical leave is not a right which could be demanded at will, even by petitioner Diaz who has been a veteran professor of 24 years at U.P. Moreover, the Court of Appeals said that the eventual denial of her sabbatical leave application was not actionable in view of the fact that (i) it would be unfair to impute negligence to respondents in the regular discharge of their functions; and (ii) assuming that there was delay in the resolution of her application, she herself caused such delay.<sup>23</sup>

The Court of Appeals also held that petitioner Diaz's own recalcitrance and defiance to comply with certain documentary requirements was the reason her salaries were withheld.<sup>24</sup>

Petitioner Diaz filed a *Motion for Reconsideration* to the aforementioned decision, which was subsequently denied for lack of merit in a Resolution dated January 20, 2006.

### *Issues*

Undaunted, petitioner Diaz is again before this Court, with the following Assignments of Error:

#### **FIRST ASSIGNMENT OF ERROR**

WITHOUT DISTURBING THE FINDINGS OF FACT OF THE TRIAL COURT BASED ON OVERWHELMING EVIDENCE REVEALING THE COMMISSION BY RESPONDENTS OF THE TORTIOUS ACTS COMPLAINED OF BY PETITIONER IN DENYING HER SABBATICAL LEAVE, THE COURT OF APPEALS GRIEVOUSLY ERRED IN IGNORING THOSE FINDINGS AND ADOPTING AND TREATING AS VALID THE FLIMSY EXCUSES OF RESPONDENTS TO AVOID THE LEGAL CONSEQUENCES OF THEIR ACTS.

#### **SECOND ASSIGNMENT OF ERROR**

THE COURT OF APPEALS ERRED IN HOLDING CONTRARY TO THE EVIDENCE ON RECORD, THAT "THERE WAS JUDICIOUS EXERCISE" BY RESPONDENTS "OF THEIR DISCRETIONARY POWER WITH RESPECT TO THE DENIAL OF THE SUBJECT SABBATICAL LEAVE."

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<sup>22</sup> *Rollo*, p. 87.

<sup>23</sup> *Id.* at 81.

<sup>24</sup> *Id.* at 84.

**THIRD ASSIGNMENT OF ERROR**

THE COURT OF APPEALS ERRED IN TREATING AS LAWFUL THE WITHHOLDING OF PETITIONER'S SALARIES, CONTRARY TO THE EVIDENCE ON RECORD.

**FOURTH ASSIGNMENT OF ERROR**

THE COURT OF APPEALS ERRED IN CONCLUDING, CONTRARY TO THE EVIDENCE ON RECORD, THAT PETITIONER "FAILED TO SHOW BY A PREPONDERANCE OF EVIDENCE THE NEGLIGENCE OF RESPONDENTS SO AS TO BE ENTITLED TO THE DAMAGES SOUGHT."

**FIFTH ASSIGNMENT OF ERROR**

THE COURT OF APPEALS ERRED IN NOT CORRECTLY COMPUTING THE SUM OF PETITIONER'S UNPAID AND EARNED SALARIES, IN UTTER DISREGARD OF THE EVIDENCE ON RECORD.

**SIXTH ASSIGNMENT OF ERROR**

THE COURT OF APPEALS ERRED IN NOT FINDING, CONTRARY TO THE EVIDENCE ON RECORD, THAT RESPONDENTS ENCANTO, TABUJARA AND ABAD ARE JOINTLY AND SEVERALLY LIABLE TO PETITIONER FOR ACTUAL, MORAL AND EXEMPLARY DAMAGES AS JOINT TORTFEASORS UNDER THE LAW.<sup>25</sup>

The issue in this case boils down to whether or not the respondents acted in bad faith when they resolved petitioner Diaz's application for sabbatical leave and withheld her salaries.

***Ruling of the Court***

The resolution of this case hinges on the question of bad faith on the part of the respondents in denying petitioner Diaz's sabbatical leave application and withholding of her salaries. Bad faith, however, is a question of fact and is evidentiary.<sup>26</sup> Thus, contrary to petitioner Diaz's belief that "[w]hat is involved in this stage of the case is the legal interpretation or the legal consequence of the material facts of this case," the resolution of the issue at hand involves a question of fact, which the respondents rightly assert, is not within the province of a Rule 45 petition.<sup>27</sup> Nonetheless, the Court makes an exception in this case especially so that both the RTC and the Court of Appeals have the same findings of fact, but they arrived at different conclusions.<sup>28</sup>

<sup>25</sup> Id. at 21-22.

<sup>26</sup> *McLeod v. National Labor Relations Commission*, 541 Phil. 214, 242 (2007).

<sup>27</sup> *Rollo*, pp. 204; 239.

<sup>28</sup> *Jarantilla, Jr. v. Jarantilla*, 651 Phil. 13, 26 (2010).

### *Application for Sabbatical Leave*

Petitioner Diaz's complaint<sup>29</sup> for recovery of damages before the RTC was based on the alleged bad faith of the respondents in denying her application for sabbatical leave *vis-à-vis* Articles 19 and 20 of the Civil Code.<sup>30</sup>

Articles 19 and 20 read as follows:

Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

Art. 20. Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same.

Article 19 of the Civil Code "prescribes a 'primordial limitation on all rights' by setting certain standards that must be observed in the exercise thereof."<sup>31</sup> Abuse of right under Article 19 exists when the following elements are present: (1) there is a legal right or duty; (2) which is exercised in bad faith; (3) for the sole intent of prejudicing or injuring another.<sup>32</sup>

This Court, expounding on the concept of bad faith under Article 19, held:

Malice or bad faith is at the core of Article 19 of the Civil Code. Good faith refers to the state of mind which is manifested by the acts of the individual concerned. It consists of the intention to abstain from taking an unconscionable and unscrupulous advantage of another. It is presumed. Thus, he who alleges bad faith has the duty to prove the same. Bad faith does not simply connote bad judgment or simple negligence; it involves a dishonest purpose or some moral obloquy and conscious doing of a wrong, a breach of known duty due to some motives or interest or ill will that partakes of the nature of fraud. Malice connotes ill will or spite and speaks not in response to duty. It implies an intention to do ulterior and unjustifiable harm. Malice is bad faith or bad motive.<sup>33</sup> (Citations omitted.)

Undoubtedly, the respondents had a duty to resolve petitioner Diaz's sabbatical leave application. The crucial question is if they did so with the intention of prejudicing or injuring petitioner Diaz.

We hold in the negative.

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<sup>29</sup> Records, pp. 1-13.

<sup>30</sup> Id. at 85.

<sup>31</sup> *Barons Marketing Corp. v. Court of Appeals and Phelps Dodge Phils., Inc.*, 349 Phil. 769, 775 (1998).

<sup>32</sup> *Dart Philippines, Inc. v. Calogcog*, 613 Phil. 224, 234 (2009).

<sup>33</sup> Id. at 235.



There is no dispute, and both the RTC and the Court of Appeals agree, that the grant of a sabbatical leave is not a matter of right, but a privilege. Moreover, the issue of whether or not the respondents acted in bad faith when they denied petitioner Diaz's application for sabbatical leave has been answered several times, in separate jurisdictions.

On May 4, 1989, the Ombudsman issued a Resolution<sup>34</sup> in Case No. OMB-0-89-0049 on the complaint filed by petitioner Diaz against respondents Encanto, Tabujara, and Abad for violation of Section 3(e) of Republic Act No. 3019, recommending the dismissal of the complaint for lack of merit. It found no manifest partiality, evident bad faith, or gross inexcusable negligence on the part of the respondents in their denial of petitioner Diaz's application for sabbatical leave and in requiring her to accomplish a Report for Duty form as a prerequisite for her entitlement to salary.

Petitioner Diaz protested the outcome of this resolution by filing a special civil action for *certiorari* with this Court, on two occasions. When G.R. No. 88834 was dismissed for non-compliance with Circular No. 1-88,<sup>35</sup> petitioner Diaz re-filed her petition, raising exactly the same issues, and this was docketed as G.R. No. 89207.<sup>36</sup>

On August 31, 1989, this Court issued a Resolution,<sup>37</sup> dismissing petitioner Diaz's petition in G.R. No. 89207. This Court noted the Ombudsman's findings and observations and found them to be supported by substantial evidence.

On April 28, 2005, the Court of Appeals had the same findings and held that the denial of petitioner Diaz's application for sabbatical leave was "*a collegial decision based on U.P.'s established rules, the grant of which is subject to the exigencies of the service, like acute shortage in teaching staff.*" It added that "*the U.P. officials' eventual denial of [Diaz's] application is not actionable x x x it is unfair to impute negligence to [respondents] in the regular discharge of their official functions.*"<sup>38</sup>

The Ombudsman and all three courts, starting from the RTC to this Court, have already established that a sabbatical leave is not a right and therefore petitioner Diaz cannot demand its grant. It does not matter that there was only one reason for the denial of her application, as the approving authorities found that such reason was enough. Moreover, not only the Court of Appeals but also the Ombudsman, and this Court, have ruled that the respondents did not act in bad faith when petitioner Diaz's sabbatical

<sup>34</sup> Records, pp. 1077-1083.

<sup>35</sup> Implementation of Sec. 12, Art. XVIII of the 1987 Constitution and complementing Administrative Circular No. 1 of January 28, 1988 on Expeditious Disposition of Cases Pending in the Supreme Court; November 8, 1988.

<sup>36</sup> Records, p. 177.

<sup>37</sup> Id. at 175-179.

<sup>38</sup> *Rollo*, pp. 80-81.

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leave application was denied. Those three separate rulings verily must be given great weight in the case at bar.

The Court does not find any reason to disregard those findings, especially when our own perusal of the evidence showed no traces of bad faith or malice in the respondents' denial of petitioner Diaz's application for sabbatical leave. They processed her application in accordance with their usual procedure – with more leeway, in fact, since petitioner Diaz was given the chance to support her application when she was asked to submit a historical background; and the denial was based on the recommendation of respondent Encanto, who was in the best position to know whether petitioner Diaz's application should be granted or not.

While the RTC declared that petitioner Diaz should have been granted a sabbatical leave, it is important to note that the RTC awarded damages to petitioner Diaz **merely for the unreasonable and unconscionable delay in the resolution of her sabbatical leave application**,<sup>39</sup> and not its denial *per se*. Thus, petitioner Diaz's entitlement to a sabbatical leave should no longer be an issue in this case. This is supported by petitioner Diaz's own action when she did not move for the reconsideration of the April 17, 1996 Decision of the RTC for awarding her damages due only to the **delay** in the resolution of her sabbatical leave application and not for its denial; and more so by the prayer in her petition to this Court wherein she asked that the April 17, 1996 Decision of the RTC be "reinstated and affirmed *in toto*."<sup>40</sup>

Nevertheless, on the question of whether or not there was bad faith in the delay of the resolution of petitioner Diaz's sabbatical leave application, the Court still rules in the negative. "It is an elementary rule in this jurisdiction that good faith is presumed and that the burden of proving bad faith rests upon the party alleging the same."<sup>41</sup> Petitioner Diaz has failed to prove bad faith on the part of the respondents. There is nothing in the records to show that the respondents purposely delayed the resolution of her application to prejudice and injure her. She has not even shown that the delay of six months in resolving a sabbatical leave application has never happened prior to her case. On the contrary, any delay that occurred was due to the fact that petitioner Diaz's application for sabbatical leave did not follow the usual procedure; hence, the processing of said application took time.<sup>42</sup>

In petitioner Diaz's petition, she criticized the Court of Appeals for imputing the cause of delay to her, arguing that as the requirement that a sabbatical leave application be filed at least one semester before its intended date of effectivity was only imposed in 1990, long after she had filed hers in

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<sup>39</sup> Id. at 164 and 169.

<sup>40</sup> Id. at 66.

<sup>41</sup> *Barons Marketing Corp. v. Court of Appeals and Phelps Dodge Phils., Inc.*, supra note 31 at 778.

<sup>42</sup> *Rollo*, p. 81; Records, p. 178.



1988.<sup>43</sup> But, precisely, this rule may have been imposed by U.P. to address any untoward delays and to likewise provide a time frame for the approving authorities in resolving sabbatical leave applications.

This Court understands petitioner Diaz's frustration, but she cannot keep on arguing that the facts, as established, and which she herself does not dispute, had been misappreciated in different occasions.

***Petitioner Diaz's Withheld Salaries***

Petitioner Diaz is entitled to her withheld salaries from July 1, 1988 to October 31, 1988, and from November 1, 1988 to May 31, 1989, and July 16, 1989 to May 31, 1990, upon submission of the required documents.

The denial of petitioner Diaz's salaries during the first semester of Academic Year (AY) 1988-1989 was due to the fact that she did not teach that semester. But when respondent Lazaro removed petitioner Diaz's name from the final schedule of teaching assignments in CMC for the first semester of AY 1988-89, it was without petitioner Diaz's prior knowledge, as admitted by respondent Lazaro herself, to wit:

ATTY. DIAZ: Now, did Prof. Diaz ask you to remove her from [the] schedule of classes?

LAZARO: I did it.

Q: Because you said you did it on your own?

A: Yes.

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Q: She did not [ask] you?

A: No.<sup>44</sup>

The Court, however, observes that respondent Lazaro, in so doing, did not act in bad faith as she expected petitioner Diaz's application for leave, of whatever nature, to be granted. As such, she did not want Diaz to have to drop the classes she was already handling once her sabbatical leave was approved, as was the case the semester before, when petitioner Diaz dropped her classes, three weeks into the start of the semester, when her application for sick leave was approved, *viz.*:

ATTY. GUNO: You mentioned a while ago that you deleted the name of Professor Diaz from this final schedule of classes. Why did you delete it?

LAZARO: I presumed in good faith that based on the letter she sent which was routed to me where she stated she could

<sup>43</sup> Id. at 32.

<sup>44</sup> TSN, September 13, 1994, p. 31.

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no longer be efficient and effective as a teacher and she was suffering from fatigue and that she could no longer work under those circumstances, I felt, as a gesture of sympathy to her that this should be granted suggesting that she be given a leave of absence of whatever kind she was qualified for and based on my previous experience on the second semester where two to three weeks into the course she dropped her courses, I did not want that to happen again.<sup>45</sup>

ATTY. GUNO: You also testified that because of the application for sabbatical leave and the reasons she gave in that letter, you deleted her name in the final list of class schedule for school year 1988-89 first semester?

LAZARO: Yes.

Q: Why did you delete her name, will you tell the Court?

A: She had applied for sabbatical leave for the whole year of 1988-89 and based on the experience of her sick leave during the previous semester which was the second semester of the previous school year where three (3) weeks into classes she filed for a sick leave and did not teach, based on that experience, I did not include her name in the class list because the same thing could happen again.<sup>46</sup>

While petitioner Diaz was not consulted about the removal of her name from the class schedule, she did not contest such upon the belief that her application for sabbatical leave would be approved, as in fact, she was given her salary in June 1988. As such, this Court believes, in the interest of equity and fairness, that petitioner Diaz should be entitled to her salary during the semester when her name was dropped from the final list of schedule of classes, without her knowledge and consent, and while action on her application for sabbatical leave was still pending.<sup>47</sup>

On the matter of her salaries from the second semester of AY 1988-89 up until AY 1989-1990, the respondents legally withheld such, as found by the Ombudsman and the Court of Appeals for petitioner Diaz's own refusal to comply with the documentary requirements of U.P. Even the RTC, in its Omnibus Order of January 12, 1990, denied petitioner Diaz's petition for mandatory injunction upon the finding that the Report for Duty Form required of her is a basic and standard requirement that is asked from all employees of U.P. The RTC held:

It is therefore clear that the acts sought to be enjoined [by Diaz] are in fact pursuant to the proper observance of administrative or internal rules of the University. This Court sympathizes with [Diaz] for not being able

<sup>45</sup> TSN, August 24, 1994, pp. 35-36.

<sup>46</sup> TSN, September 27, 1994, pp. 6-7.

<sup>47</sup> *Rollo*, pp. 46-47.

to receive her salaries after July 15, 1989. However, such predicament cannot be outrightly attributable to the defendants, as their withholding of her salaries appears to be in accordance with existing University regulations.

Apart from such reasons, this Court believes that petitioner Diaz failed to show why she should be spared from the Report for Duty requirement, which remains a standard practice even in other offices or institutions. To be entitled to an injunctive writ, one must show an unquestionable right and/or blatant violation of said right to be entitled to its issuance.<sup>48</sup>

But it cannot be denied that during the periods of November 1, 1988 to May 31, 1988 and July 16, 1989 to May 31, 1990, petitioner Diaz rendered service to U.P. for which she should be compensated.

Given the foregoing, petitioner Diaz should be paid, as the RTC had computed, her salaries from July 1, 1988 to October 1988, the semester when petitioner Diaz's name was dropped from the final list of schedule of classes, without her prior knowledge and consent; and for the periods of November 1, 1988 to May 31, 1989 and July 16, 1989 to May 31, 1990, **for the work she rendered during said periods, but upon petitioner Diaz's submission of the documents required by U.P.**

#### ***No Payment of Other Damages***

Given that the respondents have not abused their rights, they should not be held liable for any damages sustained by petitioner Diaz. "The law affords no remedy for damages resulting from an act which does not amount to a legal wrong. Situations like this have been appropriately denominated *damnum absque injuria*."<sup>49</sup> Similarly, the Court cannot grant petitioner Diaz's claim for attorney's fees as no premium should be placed on the right to litigate. "Even when a claimant is compelled to litigate or to incur expenses to protect his rights, still attorney's fees may not be awarded where there is no sufficient showing of bad faith in a party's persistence in a case other than an erroneous conviction of the righteousness of his cause."<sup>50</sup>

#### ***Legal Interest Due on the Salaries Withheld***

Pursuant to *Nacar v. Gallery Frames*,<sup>51</sup> the applicable rate of legal interest due on petitioner Diaz's withheld salaries – (i) from July 1, 1988 to October 31, 1988, the period corresponding to the first semester of AY 1988-89, when her name was removed from the final list of class schedule without her prior knowledge and consent, less the amount she had received in June 1988 – will be from April 17, 1996, the date of the Decision of the RTC, up to the full satisfaction thereof, is 6% per annum; and (ii) from November 1,

<sup>48</sup> Records, p. 289.

<sup>49</sup> *Dart Philippines, Inc. v. Calogcog*, supra note 32 at 237.

<sup>50</sup> Id. at 238.

<sup>51</sup> G.R. No. 189871, August 13, 2013, 703 SCRA 439.

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1988 to May 31, 1989, and July 16, 1989 to May 31, 1990, the periods when she was refused payment of her salaries for not accomplishing a Report for Duty Form – will be from the time petitioner Diaz submits the required Report for Duty Form up to the full satisfaction thereof, is 6% per annum.

**WHEREFORE**, the instant petition is **DENIED**. The assailed Decision of the Court of Appeals in CA-G.R. CV No. 55165 is hereby **AFFIRMED with MODIFICATION** in that the University of the Philippines, through its appropriate officials, is directed to pay petitioner Elizabeth L. Diaz her withheld salaries 1) from July 1, 1988 to October 31, 1988, with legal interest at the rate of six percent (6%) per annum, computed from the date of the Decision of the RTC on April 17, 1996 until fully paid; and 2) from November 1, 1988 to May 31, 1989 and July 16, 1989 to May 31, 1990, with legal interest at the rate of six percent (6%) per annum computed from the date petitioner Elizabeth L. Diaz submits the documents required by the University of the Philippines until fully paid.

**SO ORDERED.**

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
 Associate Justice  
 Acting Chairperson

WE CONCUR:

*Diosdado M. Peralta*  
**DIOSDADO M. PERALTA**  
 Associate Justice

*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
 Associate Justice

*Estela M. Perlas-Bernabe*  
**ESTELA M. PERLAS-BERNABE**  
 Associate Justice

*Francis H. Jardeleza*  
**FRANCIS H. JARDELEZA**  
 Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice