

University of Santo Tomas Hospital, Inc. – a Dominican Debacle

by

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Prologue: The Faculty of Medicine and Surgery (FMS) of the University of Santo Tomas is a gem recognized world wide with graduate physicians/surgeons distinguishing themselves as scientists, practitioners, academicians and hospital administrators. Established in 1871 the FMS is the flagship faculty. To achieve its educational objectives, a University hospital is an integral part. Initially while the campus was in Intramuros, the teaching hospitals were *San Juan de Dios Hospital* and *St. Paul Hospital*, both, unfortunately destroyed during World War II.

Moving to the present campus in Sampaloc, Manila, the Education Building was converted into a University Hospital in 1946. It was popularly known as the *Santo Tomas University Hospital (STUH)*. The administration was handled by a governing board which included the Vice-Rector, the Dean of FMS, Hospital Administrator (a Dominican priest) and others. Direct day-to-day operation was handled by the Hospital Administrator and the Medical Director. With such pillars as Constantino Manahan, Domingo Antonio, Jr., Ernesto Medina-Cue, Antonio Gisbert, Conrado Banzon, Ronaldo Asuncion, Tito Torralba the hospital grew and expanded including the erection of the 6-story Clinical Division meant to attend to the medical and surgical needs of the indigents. The hospital was haven to the FMS, College of Nursing, Medical Technology and later, Rehabilitation Medicine.

Seeds of disaster. In the mid-1990s the hospital began to flounder with financial losses. Pushing panic buttons, the University hired professional managers. These apparently did not work. Or so it is claimed. In 2005, radical change was imposed – the creation of the University of Santo Tomas Hospital, Inc.(USTH, Inc.) It was composed of 9 Dominican priests (with the Rector as Chair of the Board), 2 physicians and 1 lawyer. It is to be emphasized that both Fr. Ernesto Arceo, OP, then Provincial, and Fr. Tamerlane Lana, OP, Rector, wrote Dean Rolando Lopez of the FMS that USTH, Inc. is “juridically independent.” *

Faculty reacts. In a position paper* an overwhelming majority of the faculty of FMS vigorously objected to the creation of USTH, Inc. and the separation of STUH from the FMS. This was never answered by the proponents of USTH, Inc.

What is USTH, Inc.? Looking at the Securities and Exchange Commission registered corporation papers*, USTH, Inc. is

1. a management corporation offering to manage hospitals, pharmacy, laboratories, rehabilitation centers and other health related activities; it is not exclusive to UST;

2. independent of UST as the Dominican priests were incorporators in their *personal* capacity and were neither nominees of UST nor *ex-officio* members by virtue of their office in UST;
3. a corporation where the original 12 shareholders gave P100,000.00 or a total of P1,200,000.00 forming the paid-up capital of USTH, Inc.

Is USTH, Inc. related to UST? Without the contracts (see below) there is no relationship whatsoever. Thus the letters of Fr. Lana and Arceo* are explicit in stating that USTH, Inc. is a “jurically independent entity.” Also the Chairs of the departments in the medical school are appointees of the Rector while those in USTH, Inc are appointees of the Medical Director. And to complete the picture, the SEC issued a statement* that UST and USTH, Inc. are two different corporations.

Immediate after shocks. First is the polarization and demoralization of the faculty amidst all the confusion. What belongs to whom such as teaching activities (grand rounds, seminars, post-graduate courses) become a never ending debate. The Residents heretofore involved in teaching are now alienated as they belong to the hospital and not the medical school. Second, the FMS is a *Center of Excellence* by the Commission of Higher Education (CHED). There is a CHED ruling* (CHED Memorandum 10 s. 2006) that mandates the Dean to be in charge in the academic activities of the teaching hospital of a medical school. In present set-up the Dean is not an active player in the hospital.

USTH, Inc., a dangerous precedent. If the USTH, Inc. is allowed and even encouraged what is to prevent other colleges, faculties, etc. to establish a corporation and declare independence from the university? This is a very dangerous precedent and may cause fragmentation of the university.

Who inherits the shares of USTH, Inc.? As the lifespan of USTH, Inc. is 50 years or until 2055, who will inherit the shares of the founding shareholders? In the case of lay persons, their legal heirs logically are the beneficiaries. How about the Dominican priests considering that they contributed *personal funds*?

Initial Faux pas. The Corporation papers state that all the shareholders are Filipino Citizens. Yet one, Fr. Valdez, is a Spaniard. Strangely, Fr. Arceo, did not sign. Quite embarrassingly USTH, Inc. used the Tax Identification Number (TIN) of UST until this was discovered by the BIR.

Onerous contracts. Several contracts were entered into between Fr. Lana as Rector and Dr. Cenon Alfonso as USTH, Inc. CEO. It again must be underscored that Fr. Lana is also Chair of the Board of USTH, Inc.

1. Transfer of assets contract* where assets of STUH were transferred (not sold or leased) to USTH, Inc. In a later letter* dated June 8, 2007 by Fr. Arceo he claimed that the total assets “donated” was P240 million. In the same letter Fr. Arceo claims that the P240 million donation is much more than the P1.2 M contributed by the original shareholders of USTH, Inc. thus making UST as the biggest stockholder. This argument is flawed because a) USTH, Inc is allegedly

- non-stock; b) the P240M is a donation and cannot be converted into an equity. If the P240M is indeed an equity, we have a strange condition where UST is both *lessor* and *leasee* under the Lease contract! Is this legally possible? Consider further that some of the assets transferred/donated belong to the FMS either raised from “Special Development Fund” taken as additional tuition fees from medical students or donations made by alumni.
2. Contract of lease* wherein UST as *lessor* leases STUH to USTH, Inc.(*leasee*) for 50 years or until 2055. The rental fee is so low that it must be a sweetheart deal.
 3. Transfer of contract defining taxes, etc. This contract is so onerous as USTH, Inc. can terminate the contract of lease for any reason by giving 6 months notice.

USTH, Inc. and the contracts violate canon law. The article of Atty. Jose C. Sison,* a distinguished alumnus, must be considered and reflected. Who owns UST? AS UST is both Catholic and Pontifical it cannot be gainsaid that it is ecclesiastical. As such UST is governed by and subject to provisions of Canon Law. The following provisions are instructive.

“Can. 635 §1. Since the temporal goods of religious institutes are ecclesiastical, they are governed by the prescripts of Book V, The Temporal Goods of the Church, unless other provision is expressly made.”

“Can. 1257 §1 All temporal goods belonging to the universal Church, to the Apostolic See or to other public juridical persons in the Church, are ecclesiastical goods and are regulated by the canons which follow, as well as by their own statutes. “

And who, really, is the final administrator?

“Can. 1273 By virtue of his primacy of governance, the Roman Pontiff is the supreme administrator and steward of all ecclesiastical goods.”

In a June 8, 2007 letter,* Fr. Arceo wrote that UST *donated* P240 million worth of equipment to USTH, Inc. The following canon law provision applies

“Can. 1270 If they belong to the Apostolic See, immovable property, precious movable objects, and personal or real rights and actions are prescribed by a period of a hundred years; if they belong to another public ecclesiastical juridic person, they are prescribed by a period of thirty years.”

As STUH was established in 1946, only *movable* assets acquired earlier than 1977 could be alienated. Which property was donated?

Moreover as the value being alienated (P240 million) is huge, the following applies

“§2. The permission of the Holy See is also required for the valid alienation of

goods whose value exceeds the maximum amount, goods given to the Church by vow, or goods precious for artistic or historical reasons.”

When the assets of USTH were transferred to USTH, Inc. and when the assets of the Faculty of Medicine were donated to USTH, Inc. there was *alienation* of ecclesiastical property. Were the following provisions of canon law complied with?

“Can. 1291 The permission of the authority competent according to the norm of law is required for the valid alienation of goods which constitute by legitimate designation the stable patrimony of a public juridic person and whose value exceeds the sum defined by law.”

Was permission obtained from competent authority? Parenthetically – yet of relevance – was the donation – a huge one – done with the approval of governing bodies such as the Council of regents, Economic Council and the Board of Trustees of the University?

As Fr. Lana is both the donor and the donee, consider this provision

“Can. 1298 Unless an asset is of little value, ecclesiastical goods are not to be sold or leased to the administrators of these goods or to their relatives up to the fourth degree of consanguinity or affinity without the special written permission of competent authority.”

Finally a caveat

“Can. 1377 A person who alienates ecclesiastical goods without the prescribed permission is to be punished with a just penalty.”

Objections raised. Fr. Francisco Tuano, OP, wrote a letter* detailing his objections to the Master General. He was not given the favor of a reply. Likewise Fr. Jerry Manlangit, OP, Regent of FMS made similar objections*. This was answered by the Vicar General*. Please note that Fr. Manlangit as FMS Regent had the duty to object in an effort to protect the interest of FMS, a function that he was bound to express.. Fr. Efren Rivera, OP likewise wrote a letter* advocating farther dialogue.

FMS Regent terminated. While attending the alumni homecoming in San Francisco, CA, Fr. Jerry Manlangit, OP, Regent of FMS received a text message from the Provincial informing him of his relief as regent and transfer to Iloilo. This was irregular as Fr. Manlangit’s term as Regent was not yet expired. His only “crime” was his opposition to USTH, Inc., an act that he was obligated to do as he had to protect

the interest of FMS. Later on, the punitive action became more harsh as Fr. Manlangit was given a gag order not to talk about the hospital! Why would such an action be needed if the scheme was above board and could stand the scrutiny of a debate?

Dominican Fathers convoke. A meeting was held to thresh out the differences. The lawyers and administrators of USTH, Inc. were present. Several questions were raised such as the conflict of interest issue as Fr. Lana is both donor and donee. Another issue was how can Dominican priests shell out P100,000.00 when they took the vow of poverty? The following is instructive

THE BOOK OF CONSTITUTIONS AND ORDINATIONS OF THE ORDER OF PREACHERS (LCO)

“Chapter I

ON RELIGIOUS CONSECRATION

Art IV -- On Poverty

30. Imitating the Apostles, who proclaimed the kingdom of God without gold, silver, or money, Saint Dominic and his brethren, according to the needs of the apostolate in their age, determined not to have possessions -- neither income nor money -- and, while they preached the gospel, to beg daily the bread of the community. This was the apostolic poverty in the beginning of the Order, and its spirit must also animate us according to the forms adapted to different times and places.

31.I. Hearing the Lord say, "Go sell what you have, and give to the poor, and come follow me, "we have decided to be poor both in fact and in spirit, so that while we endeavor to convert people to heavenly things and to rescue them from the domination of wealth, we may be ourselves conquerors of greed by conformity with Christ, "who for our sake became poor, that by his poverty we might become rich."

II. This spirit of poverty impels us to store our treasure in the justice of the kingdom of God, with a living confidence in the Lord. This is freedom from servitude, and indeed from anxiety about earthly things, so that we may cling to God more closely, be more readily available to Him, and more boldly speak about Him. This means for us, therefore, a frugality which unites us more closely with the poor to be evangelized, but it also means a liberality toward the brethren and our neighbors, since for the kingdom of God, especially for the needs of study and of the ministry of salvation, we gladly spend our resources "so that in all the needs of this life which pass away, that charity may reign which abides forever.

32.I. In our profession, therefore, we promise God to possess nothing by right of personal ownership, but to have all things in common and to use them under the direction of superiors for the common good of the Order and of the Church.

II. Consequently, none of the brethren can retain as his own any goods, either money or income allotted to him in any manner whatsoever, but he must hand over everything to the community.

III. But neither should an accumulation of common goods be admitted in the community itself which does not serve the purpose of the Order or its ministry since this would oppose the poverty which all, individually and as members of the community, have professed.

33. Since poverty imposes on so many people the necessity of strenuous labor for simple livelihood, our brethren must give a powerful collective witness publicly by working energetically in their apostolic service, by living sensibly from an often uncertain income, and by gladly sharing their goods with those less fortunate.

* 34.I. The brethren should beware of collecting novelties or the comforts of life, but in all things and all places they should lead a simple life.

II. In accord with the general norms and the spirit of the Order, provinces can determine the manner of observing poverty, having studied the circumstances of time, location, people, and ministries.

35. Superiors and syndics should so carefully provide from common resources for the true and reasonable needs of the brethren, that private life may be completely excluded.

36. Since "everyone ought to be concerned to some extent about the needs of daily life," religious poverty demands that all the brethren should be aware of their responsibility for the economic life of the convent (see nn. 576-577).

37. Avoiding anything that is superfluous or pretentious, our convents should be simple and suited to their purpose and so planned according to the standards of the place and time that they offend no one.

* 38.I. The brethren can have certain books and different equipment for personal use but in moderation and according to the determination of a provincial chapter. Those who have been assigned under obedience to special studies and duties can be given permission by the prior provincial, after consulting the local superior, to have books and suitable equipment.

II. When brethren have been assigned to another convent, they can take with them only what the prior provincial allows according to the legitimate customs of the province."

But the most important question was whether the lawyers who drafted the corporation papers and the varied contracts consulted canon laws. They answered in the negative. Another meeting was to be held which never took place.

Investigations. In an effort to resolve the problem, Fr. Quirico Pedregosa, OP, Assistant to the Master General for Asia and the Pacific (AMG) was assigned to conduct investigations. A dialogue with several physicians was held on Palm Sunday 2006. Upon Fr. Pedregosa's request the minutes of said meeting was given to him by

way of a letter.* It is well nigh uncanny that Fr. Pedregosa was ordered not to continue his investigation by the Master General. Instead a new team headed by Fr. Mark Edney, OP came. A position paper was submitted by Fr. Tuano*. To this late date no decision has been transmitted.

Hospital renovations. A Benavides Cancer Institute was built allegedly using the Benavides Fund, a money that is meant for Dominican priests who may need money as hospitalization, emergencies, etc. Two auditorium were built, both named after Angelo King, the motel king of the Philippines. Meantime, the hospital conference room which was burned in 2006 remains unfinished. The 5th floor of the Clinical Division remains dormant as the construction is in suspended animation. The portion of the hospital surrounding the Medical Arts Building has been demolished in preparation for the construction of a new hospital.

USTH, Inc. signs huge loan. On 12 April 2007, USTH, Inc. signs a P3-billion loan from a consortium of banks (Development Bank of the Philippines (DBP) P1.5B, DBP Trust Services (P200 M), Land Bank of the Philippines (LBP) P1 B, Philtruts P300 M). Note that except for Philtrust, all the lending banks are government banks. Obviously the private commercial banks did not deem it prudent to join the syndicated loan. Why? On June 16, 2007 Dr. Mateo Bagsik, Medical Director announced that no money has been released by the banks despite the signing of the loan. All these are strange as Dr. Cenon Alfonso, USTH, Inc. CEO told the *Varsitarian** (UST Student publication) that the loan was tax free, interest free and collateral-free. Moreover USTH, Inc. had a stand by credit from the European Community amounting to 1.5 B Euro or \$2 B!

Matters arising from the loan. How can USTH, Inc with nothing but a paid-up capital of P1.2M borrow P3 B without a collateral? In lieu of a collateral, the Provincial allegedly issued a “comfort letter” the contents of which was not revealed. How can USTH, Inc build a building on land that it does not own? Were the banks aware that the *real borrower* USTH, Inc. and not UST? What is the interest of the loan? Given the magnitude of the project was a *design contest* conducted inviting architects around the world to participate? This contest would have optimized getting the best design value-for-money. Was *due diligence* performed including hiring a devil’s advocate, a credit investigator and a lawyer?

Collateral damage. Significant injury – political and organizational – happened following the creation of USTH, Inc.

1. Faculty members who were *perceived* to be oppositors to the USTH, Inc were not given extended appointments. This is most unfortunate as these are the senior faculty members who have served the University with élan for about four decades. They hold the rank of full Professor and had served the University in varied administrative responsibilities and are internationally known. What kind of loyalty do we expect if we treat our faculty who has given us esteem in such a shabby manner? The vindictive act now extends to their position as Active Medical Staff in the hospital. All these are done without any charges,

investigations or any other form of due process. In truth this stroke of vengeance runs counter to our catechism

907 "In accord with knowledge, competence, and prominence which they possess, (lay people) have the right and even at times a duty to manifest to the sacred pastors their opinion on matters which pertain to the good of the Church, and they have a right to make their opinion known to the other Christian faithful..." Pope Benedict XVI in his usual linguistic eloquence said "God does not compel, does not oppress individual liberty," and "that democracy is called to take into account the aspirations of the citizens as a whole, and to promote increasing respect for all the components of society, according to the principles of solidarity, subsidiarity and justice."

These physicians adversely affected may well seek redress and justice outside the University and in the courts of law. The adverse publicity alone is unthinkable! In desperation the administration will risk the ire and resentment of their own faculty who easily form the cream of the crop, an asset that even other institutions are envious of! *Was the non-reappointment decided with the approval of Academic Senate?*

2. Totally forgotten is the effect of this P3B loan on the other colleges/faculties of the University. Are we not short changing the interests, expansion and development by putting all our resources to the hospital? We have a huge campus (double the present one) in Santa Rosa, Laguna where industrialization is in full swing. We are supposed to build and start sometime in 2011 (the 400th anniversary of the University). Part of the land is donated and if we do not move soon, we will lose the donated land, a priceless piece of real estate. The other schools have long moved in the vicinity in anticipation of the industrial boom that is now on going. We are throwing good money after bad by concentrating our scarce resources on the hospital in the Sampaloc campus.

How much was spent? Several expenses must have been incurred, including

1. cost of demolition of the building
2. Cost of feasibility study. Who did the study?
3. Cost of architectural work? Who got the project?
4. Engineering costs. Who got the project?
5. Attorneys' fees/notary fee
6. Documentary/science stamps
7. Finder's fees/facilitation fee

In the foregoing is there conflict of interest especially involving relatives?

Transparency and accountability are part of good governance.

Taxes, taxes and more taxes. As USTH, Inc. is not part of UST, it should be taxed accordingly:

1. Real estate taxes by the city of Manila
2. AS UST leases STUH, UST can be taxed;
3. As USTH, Inc subleases space to doctors and concessionaires, USTH, Inc can be taxed

4. Income tax. Note that USTH, Inc. has been claiming large amount of income since taking over STUH.

Medical Staff summarily dismissed. In a letter/Memo*, Dr. Rolando Cabatu wrote that as of 31 May 2007, the terms of the Active Medical Staff expires. As late as July 18, 2007 no new appointments were issued. Thus legally the hospital has no Medical Staff!

News reports. In recent past, USTH, Inc. has been the topic of discussion in the newspapers. Almost all have been critical* including a censored article by a prominent alumnus.* Outside UST criticism is so common and questions raised most of which could not be answered. The lack of transparency has led to confusion and scuttlebutts.

Land on which UST stands is a donation. Fr. Arceo* mentioned that the deed of donation could not be found. This is strange as the *Archives* of UST is easily the richest historical collection in the country with including manuscripts that date to the 14th century. In fact the records of Rizal while he was in Ateneo are in UST. Fr.

Arceo conveniently did not cite the provisions of the donation which are

- the property shall be managed *only* by Dominicans (no physicians, lawyers or businessmen);
- the property is to be used only for religious, educational and charitable purposes (not service as USTH, Inc.)
- the property cannot be fragmented (no USTH, Inc.)
- should any of the above be violated, the entire property, including the improvements shall revert to the donors **WITHOUT INDEMNITY.**

The donors (Bustamante and Bayot families) now have a legal cause of action to reclaim the entire campus of UST.

US alumni react. Ripples of the turmoil in UST have gone to the United States. In their last meeting in Las Vegas, the UST Medical Alumni Association in America, resolved to channel any contribution to the hospital thru Lingkod ER and Gawad Kalusugan and no funds will be given USTH, Inc. until the Dominican order or Vatican or Philippine laws dissolves the corporation.

Epilogue. Lest it be forgotten, the campus – all 24 hectares – was donated by Francisca Bustamante Bayot with conditionalities. In an article* that was censored Atty. Jose C. Sison wrote eloquently that the legal grounds for the revocation of the donation exist and the heirs of the donors can give notice claiming the entire property “with all improvements without indemnity.” If this happens UST and the Dominican community will be in for a very rough ride with expensive litigation and untold embarrassing publicity It is also awkward that various provisions of canon law were violated in an institution that claims to be both Catholic and Pontifical. . Surely USTH, Inc. is our debacle; hopefully, it is not our Waterloo. We must join in prayer that our action be prudent guided by the Almighty through the intercession of St. Dominic and our Blessed Mother. USTH, Inc. is Judas’ silver; it must be dissolved

before conflagration consumes us. On the feast of St. John the Baptist, His Holiness said that the Church must be “witness to the truth without compromise” even “when the protagonists are people in power.” His words inspire us and are our source of fortitude.

George Santayana, the historian said, "Those who cannot remember the past are condemned to repeat it." There is a hospital in Metro Manila that used to be owned, controlled and managed by a religious group. By several corporate maneuvers the hospital is now fully controlled by businessmen with no representation from the original owners. Is USTH, Inc. bound to repeat history and suffer the same fate?

*available documentary evidence