

EN BANC

[G.R. No. 164785, March 15, 2010]

ELISEO F. SORIANO, PETITIONER, VS. MA. CONSOLIZA P. LAGUARDIA, IN HER CAPACITY AS CHAIRPERSON OF THE MOVIE AND TELEVISION REVIEW AND CLASSIFICATION BOARD, MOVIE AND TELEVISION REVIEW AND CLASSIFICATION BOARD, JESSIE L. GALAPON, ANABEL M. DELA CRUZ, MANUEL M. HERNANDEZ, JOSE L. LOPEZ, CRISANTO SORIANO, BERNABE S. YARIA, JR., MICHAEL M. SANDOVAL, AND ROLDAN A. GAVINO, RESPONDENTS.

[G.R. No. 165636]

ELISEO F. SORIANO, PETITIONER, VS. MOVIE AND TELEVISION REVIEW AND CLASSIFICATION BOARD, ZOSIMO G. ALEGRE, JACKIE AQUINO-GAVINO, NOEL R. DEL PRADO, EMMANUEL BORLAZA, JOSE E. ROMERO IV, AND FLORIMONDO C. ROUS, IN THEIR CAPACITY AS MEMBERS OF THE HEARING AND ADJUDICATION COMMITTEE OF THE MTRCB, JESSIE L. GALAPON, ANABEL M. DELA CRUZ, MANUEL M. HERNANDEZ, JOSE L. LOPEZ, CRISANTO SORIANO, BERNABE S. YARIA, JR., MICHAEL M. SANDOVAL, AND ROLDAN A. GAVINO, IN THEIR CAPACITY AS COMPLAINANTS BEFORE THE MTRCB, RESPONDENTS.

R E S O L U T I O N

VELASCO JR., J.:

Before us is this motion of petitioner Eliseo F. Soriano for reconsideration of the Decision of the Court dated April 29, 2009, modifying that of the Movie and Television Review and Classification Board (MTRCB) by imposing the penalty of three-month suspension on the television show *Ang Dating Daan*, instead of on petitioner Soriano, as host of that program.

Petitioner seeks reconsideration on the following grounds or issues: (1) the suspension thus meted out to the program constitutes prior restraint; (2) the Court erred in ruling that his utterances^[1] did not constitute exercise of religion; (3) the Court erred in finding the language used as offensive and obscene; (4) the Court should have applied its policy of non-interference in cases of conflict between religious groups; and (5) the Court erred in penalizing the television program for the acts of petitioner.

The motion has no merit.

Petitioner's threshold posture that the suspension thus imposed constitutes prior restraint and an abridgement of his exercise of religion and freedom of expression is

a mere rehash of the position he articulated in the underlying petitions for certiorari and expounded in his memorandum.^[2] So are the supportive arguments and some of the citations of decisional law, Philippine and American, holding it together. They have been considered, sufficiently discussed in some detail, and found to be without merit in our Decision. It would, thus, make little sense to embark on another lengthy discussion of the same issues and arguments.

Suffice it to reiterate that the sanction imposed on the TV program in question does not, under the factual milieu of the case, constitute prior restraint, but partakes of the nature of subsequent punishment for past violation committed by petitioner in the course of the broadcast of the program on August 10, 2004. To be sure, petitioner has not contested the fact of his having made statements on the air that were contextually violative of the program's "G" rating. To merit a "G" rating, the program must be "suitable for all ages," which, in turn, means that the "material for television [does not], in the judgment of the [MTRCB], x x x contain anything unsuitable for children and minors, and may be viewed without adult guidance or supervision."^[3] As previously discussed by the Court, the vulgar language petitioner used on prime-time television can in no way be characterized as suitable for all ages, and is wholly inappropriate for children.

Petitioner next harps on the primacy of his freedoms, referring particularly to the exercise of his religious beliefs and profession, as presiding minister of his flock, over the right and duty of the state as *parens patriae*. Petitioner's position may be accorded some cogency, but for the fact that it fails to consider that the medium he used to make his statements was a television broadcast, which is accessible to children of virtually all ages. As already laid down in the Decision subject of this recourse, the interest of the government in protecting children who may be subjected to petitioner's invectives must take precedence over his desire to air publicly his dirty laundry. The public soapbox that is television must be guarded by the state, which purpose the MTRCB serves, and has served, in suspending *Ang Dating Daan* for petitioner's statements. As emphasized in *Gonzalez v. Kalaw Katigbak*,^[4] the freedom of broadcast media is, in terms of degree of protection it deserves, lesser in scope, especially as regards television, which reaches every home where there is a set, and where children will likely be among the avid viewers of the programs shown. The same case also laid the basis for the classification system of the MTRCB when it stated, "It cannot be denied though that the State as *parens patriae* is called upon to manifest an attitude of caring for the welfare of the young."^[5]

The penalty of suspension imposed on petitioner has driven him to liken the Court to "a blind man who was asked to describe an elephant, and by his description he stubbornly believed that an elephant is just the same as a Meralco post after touching one of its legs."^[6] Petitioner makes this comparison with the view that the factual backdrop against which his statements were made was purportedly not considered by the Court. As he presently argues:

The Honorable Court should have rendered its decision in light of the surrounding circumstances why and what prompted herein petitioner to utter those words. Clearly, he was provoked because of the malicious and blatant splicing by the INC ministers of his recorded voice. Verily,

Petitioner submits that the choice of words he used has been harsh but strongly maintains that the same was consistent with his constitutional right of freedom of speech and religion.

Contrary to petitioner's impression, the Court has, in fact, considered the factual antecedents of and his motive in making his utterances, and has found those circumstances wanting as defense for violating the program's "G" rating. Consider the following excerpts from the Court's Decision:

There is nothing in petitioner's statements subject of the complaints expressing any particular religious belief, nothing furthering his avowed evangelical mission. The fact that he came out with his statements in a televised bible exposition program does not automatically accord them the character of a religious discourse. Plain and simple insults directed at another person cannot be elevated to the status of religious speech. Even petitioner's attempts to place his words in context show that he was moved by anger and the need to seek retribution, not by any religious conviction. His claim, assuming its veracity, that some INC ministers distorted his statements respecting amounts *Ang Dating Daan* owed to a TV station does not convert the foul language used in retaliation as religious speech. We cannot accept that petitioner made his statements in defense of his reputation and religion, as they constitute no intelligible defense or refutation of the alleged lies being spread by a rival religious group. They simply illustrate that petitioner had descended to the level of name-calling and foul-language discourse. Petitioner could have chosen to contradict and disprove his detractors, but opted for the low road.

And just to set things straight, the penalty imposed is on the program, not on petitioner.

Petitioner would next have the Court adopt a hands-off approach to the conflict between him and the *Iglesia Ni Cristo*. In support of his urging, he cites *Iglesia ni Cristo v. Court of Appeals*.^[7]

Petitioner's invocation of *Iglesia ni Cristo* to support his hands-off thesis is erroneous. Obviously, he fails to appreciate what the Court stated in that particular case when it rejected the argument that a religious program is beyond MTRCB's review and regulatory authority. We reproduce what the Court pertinently wrote in *Iglesia ni Cristo*:

We thus reject petitioner's postulate that its religious program is *per se* beyond review by the respondent [MTRCB]. Its public broadcast on TV of its religious program brings it out of the bosom of internal belief. Television is a medium that reaches even the eyes and ears of children. The Court iterates the rule that **the exercise of religious freedom can be regulated by the State** when it will bring about the clear and present danger of some substantive evil which the State is duty bound to prevent, i.e. serious detriment to the more overriding interest of public health, public morals, or public welfare. A *laissez faire* policy on the

exercise of religion can be seductive to the liberal mind but history counsels the Court against its blind adoption as religion is and continues to be a volatile area of concern in our country today. Across the sea and in our shore, the bloodiest and bitterest wars fought by men were caused by irreconcilable religious differences. Our country is still not safe from the recurrence of this stultifying strife considering our warring religious beliefs and the fanaticism with which some of us cling and claw to these beliefs. x x x ***For when religion divides and its exercise destroys, the State should not stand still.***^[8] (Emphasis added.)

Lastly, petitioner claims that there was violation of due process of law, alleging that the registered producer of the program is not a party to the proceedings. Hence, the program cannot, so petitioner asserts, be penalized.

We will let the records speak for themselves to refute that argument.

As per petitioner's admission in his petition for certiorari filed with the Court, he is "the Executive Producer of *Ang Dating Daan*, a televised bible exposition program produced by the Philippine-based religious organization, Church of God International."^[9] It is unclear, then, which producer the movant is referring to in claiming that there was no representation before the MTRCB. He was and is the representative of *Ang Dating Daan*, and the claim that there was no due process of law is simply bereft of merit.

Even as the foregoing disquisitions would suffice to write finis to the instant motion, certain relevant issues have been raised by some members of the Court that ought to be addressed if only to put things in their proper perspective. We refer to the matter of obscenity.

As stressed at every possible turn in the challenged Court's Decision, the defining standards to be employed in judging the harmful effects of the statements petitioner used would be those for the average child, not those for the average adult. We note that the ratings and regulation of television broadcasts take into account the protection of the child, and it is from the child's narrow viewpoint that the utterances must be considered, if not measured. The ratings "G," "PG" (parental guidance), "PG-13," and "R" (restricted or for adults only) suggest as much. The concern was then, as now, that the program petitioner hosted and produced would reach an unintended audience, the average child, and so it is how this audience would view his words that matters. The average child would not be concerned with colorful speech, but, instead, focus on the literal, everyday meaning of words used. It was this literal approach that rendered petitioner's utterances obscene.

The Court has taken stock of *Action for Children's Television v. FCC*,^[10] but finds this U.S. case not to be of governing application to this jurisdiction under the present state of things. The so-called "safe harbor" of 10:00 p.m. to 6:00 a.m., adverted to in *Action for Children's Television* as the time wherein broadcast of indecent material may be permitted, is believed inapplicable here. As it were, there is no legislative enactment or executive issuance setting a similar period in the Philippines wherein indecent material may be broadcast. Rather than fix a period for allowing indecent programming, what is used in this jurisdiction is the system of

classification of television programs, which the petitioner violated. His program was rated "G," purported to be suitable for all ages. We cannot lose sight of the violation of his program's classification that carried with it the producer's implied assurance that the program did not contain anything unsuitable for children and minors. The hour at which it was broadcasted was of little moment in light of the guarantee that the program was safe for children's viewing.

The suspension of the program has not been arrived at lightly. Taking into account all the factors involved and the arguments pressed on the Court, the suspension of the program is a sufficiently limited disciplinary action, both to address the violation and to serve as an object lesson for the future. The likelihood is great that any disciplinary action imposed on petitioner would be met with an equally energetic defense as has been put up here. The simple but stubborn fact is that there has been a violation of government regulations that have been put in place with a laudable purpose, and this violation must accordingly be dealt with. We are not unmindful of the concerns on the restriction of freedoms that may occur in imposing sanctions upon erring individuals and institutions, but it cannot be over-emphasized that the freedoms encased in the Bill of Rights are far from absolute. Each has its own limits, responsibilities, and obligations. Everyone is expected to bear the burden implicit in the exercise of these freedoms. So it must be here.

WHEREFORE, petitioner's motion for reconsideration is hereby **DENIED**.

No further pleadings shall be entertained in this case. Let entry of judgment be made in due course.

SO ORDERED.

Corona, Nachura, Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Villarama, Jr., Perez, and Mendoza, JJ., concur.

Puno, C.J., reiterate my dissent in the original decision.

Carpio, J., see dissenting opinion.

Carpio Morales, J., maintain my concurrence with the dissent of the original opinion, hence, vote to grant the present motion.

Brion, J., concur in accordance with the original separate opinion of J.Renato Corona.

Abad, J., see dissenting opinion.

[1] *Lehitimong anak ng demonyo; sinungaling;*

Gago ka talaga Michael, masahol ka pa sa putang babae o di ba. Yung putang babae ang gumagana lang doon yung ibaba, [dito] kay Michael ang gumagana ang itaas, o di ba! O, masahol pa sa putang babae yan. Sabi ng lola ko masahol pa sa putang babae yan. Sobra ang kasinungalingan ng mga demonyong ito. x x x

[2] *Rollo* (G.R. No. 165636), pp. 807-913.

[3] Section 2 (a), Chapter IV, Implementing Rules and Regulations Pursuant to Section 3(a) of Presidential Decree No. 1986.