

EN BANC

[G.R. No. 164785, April 29, 2009]

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.

D E C I S I O N

VELASCO JR., J.:

In these two petitions for certiorari and prohibition under Rule 65, petitioner Eliseo F. Soriano seeks to nullify and set aside an order and a decision of the Movie and Television Review and Classification Board (MTRCB) in connection with certain utterances he made in his television show, *Ang Dating Daan*.

Facts of the Case

On August 10, 2004, at around 10:00 p.m., petitioner, as host of the program *Ang Dating Daan*, aired on UNTV 37, made the following remarks:

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.^[1] x x x

Two days after, before the MTRCB, separate but almost identical affidavit-complaints were lodged by Jessie L. Galapon and seven other private respondents, all members of the Iglesia ni Cristo (INC),^[2] against petitioner in connection with the above broadcast. Respondent Michael M. Sandoval, who felt directly alluded to in petitioner's remark, was then a minister of INC and a regular host of the TV program *Ang Tamang Daan*.^[3] Forthwith, the MTRCB sent petitioner a notice of the hearing on August 16, 2004 in relation to the alleged use of some cuss words in the August 10, 2004 episode of *Ang Dating Daan*.^[4]

After a preliminary conference in which petitioner appeared, the MTRCB, by Order of August 16, 2004, preventively suspended the showing of *Ang Dating Daan* program for 20 days, in accordance with Section 3(d) of Presidential Decree No. (PD) 1986, creating the MTRCB, in relation to Sec. 3, Chapter XIII of the 2004 Implementing Rules and Regulations (IRR) of PD 1986 and Sec. 7, Rule VII of the MTRCB Rules of Procedure.^[5] The same order also set the case for preliminary investigation.

The following day, petitioner sought reconsideration of the preventive suspension order, praying that Chairperson Consoliza P. Laguardia and two other members of the adjudication board recuse themselves from hearing the case.^[6] Two days after, however, petitioner sought to withdraw^[7] his motion for reconsideration, followed by the filing with this Court of a petition for certiorari and prohibition,^[8] docketed as G.R. No. 164785, to nullify the preventive suspension order thus issued.

On September 27, 2004, in Adm. Case No. 01-04, the MTRCB issued a decision, disposing as follows:

WHEREFORE, in view of all the foregoing, a Decision is hereby rendered, finding respondent Soriano liable for his utterances and thereby imposing on him a penalty of three (3) months suspension from his program, "Ang Dating Daan".

Co-respondents Joselito Mallari, Luzviminda Cruz and UNTV Channel 37 and its owner, PBC, are hereby exonerated for lack of evidence.

SO ORDERED.^[9]

Petitioner then filed this petition for certiorari and prohibition with prayer for injunctive relief, docketed as G.R. No. 165636.

In a Resolution dated April 4, 2005, the Court consolidated G.R. No. 164785 with G.R. No. 165636.

In G.R. No. 164785, petitioner raises the following issues:

THE ORDER OF PREVENTIVE SUSPENSION PROMULGATED BY RESPONDENT [MTRCB] DATED 16 AUGUST 2004 AGAINST THE TELEVISION PROGRAM *ANG DATING DAAN* x x x IS NULL AND VOID FOR BEING ISSUED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION

(A)BY REASON THAT THE [IRR] IS INVALID INSOFAR AS IT

- PROVIDES FOR THE ISSUANCE OF PREVENTIVE SUSPENSION ORDERS;
- (B) BY REASON OF LACK OF DUE HEARING IN THE CASE AT BENCH;
- (C) FOR BEING VIOLATIVE OF EQUAL PROTECTION UNDER THE LAW;
- (D) FOR BEING VIOLATIVE OF FREEDOM OF RELIGION; AND
- (E) FOR BEING VIOLATIVE OF FREEDOM OF SPEECH AND EXPRESSION.^[10]

In G.R. No. 165636, petitioner relies on the following grounds:

SECTION 3(C) OF [PD] 1986, IS PATENTLY UNCONSTITUTIONAL AND ENACTED WITHOUT OR IN EXCESS OF JURISDICTION x x x CONSIDERING THAT:

I

SECTION 3(C) OF [PD] 1986, AS APPLIED TO PETITIONER, UNDULY INFRINGES ON THE CONSTITUTIONAL GUARANTEE OF FREEDOM OF RELIGION, SPEECH, AND EXPRESSION AS IT PARTAKES OF THE NATURE OF A SUBSEQUENT PUNISHMENT CURTAILING THE SAME; CONSEQUENTLY, THE IMPLEMENTING RULES AND REGULATIONS, RULES OF PROCEDURE, AND OFFICIAL ACTS OF THE MTRCB PURSUANT THERETO, I.E. DECISION DATED 27 SEPTEMBER 2004 AND ORDER DATED 19 OCTOBER 2004, ARE LIKEWISE CONSTITUTIONALLY INFIRM AS APPLIED IN THE CASE AT BENCH;

II

SECTION 3(C) OF [PD] 1986, AS APPLIED TO PETITIONER, UNDULY INFRINGES ON THE CONSTITUTIONAL GUARANTEE OF DUE PROCESS OF LAW AND EQUAL PROTECTION UNDER THE LAW; CONSEQUENTLY, THE [IRR], RULES OF PROCEDURE, AND OFFICIAL ACTS OF THE MTRCB PURSUANT THERETO, I.E., DECISION DATED 27 SEPTEMBER 2004 AND ORDER DATED 19 OCTOBER 2004, ARE LIKEWISE CONSTITUTIONALLY INFIRM AS APPLIED IN THE CASE AT BENCH; AND

III

[PD] 1986 IS NOT COMPLETE IN ITSELF AND DOES NOT PROVIDE FOR A SUFFICIENT STANDARD FOR ITS IMPLEMENTATION THEREBY RESULTING IN AN UNDUE DELEGATION OF LEGISLATIVE POWER BY REASON THAT IT DOES NOT PROVIDE FOR THE PENALTIES FOR VIOLATIONS OF ITS PROVISIONS. CONSEQUENTLY, THE [IRR], RULES OF PROCEDURE, AND OFFICIAL ACTS OF THE MTRCB PURSUANT THERETO, I.E. DECISION DATED 27 SEPTEMBER 2004 AND ORDER DATED 19 OCTOBER 2004, ARE LIKEWISE CONSTITUTIONALLY INFIRM AS APPLIED IN THE CASE AT BENCH^[11]

G.R. No. 164785

We shall first dispose of the issues in G.R. No. 164785, regarding the assailed order

of preventive suspension, although its implementability had already been overtaken and veritably been rendered moot by the equally assailed September 27, 2004 decision.

It is petitioner's threshold posture that the preventive suspension imposed against him and the relevant IRR provision authorizing it are invalid inasmuch as PD 1986 does not expressly authorize the MTRCB to issue preventive suspension.

Petitioner's contention is untenable.

Administrative agencies have powers and functions which may be administrative, investigatory, regulatory, quasi-legislative, or quasi-judicial, or a mix of the five, as may be conferred by the Constitution or by statute.^[12] They have in fine only such powers or authority as are granted or delegated, expressly or impliedly, by law.^[13] And in determining whether an agency has certain powers, the inquiry should be from the law itself. But once ascertained as existing, the authority given should be liberally construed.^[14]

A perusal of the MTRCB's basic mandate under PD 1986 reveals the possession by the agency of the authority, albeit impliedly, to issue the challenged order of preventive suspension. And this authority stems naturally from, and is necessary for the exercise of, its power of regulation and supervision.

Sec. 3 of PD 1986 pertinently provides the following:

Section 3. Powers and Functions.—The BOARD shall have the following functions, powers and duties:

x x x x

c) To approve or disapprove, delete objectionable portions from and/or prohibit the x x x production, x x x exhibition and/or television broadcast of the motion pictures, television programs and publicity materials subject of the preceding paragraph, which, in the judgment of the board applying contemporary Filipino cultural values as standard, are objectionable for being immoral, indecent, contrary to law and/or good customs, injurious to the prestige of the Republic of the Philippines or its people, or with a dangerous tendency to encourage the commission of violence or of wrong or crime such as but not limited to:

x x x x

vi) Those which are libelous or defamatory to the good name and reputation of any person, whether living or dead;

x x x x

(d) To **supervise, regulate**, and grant, deny or cancel, permits for the x x x production, copying, distribution, sale, lease, **exhibition, and/or television broadcast** of all motion pictures, television programs and publicity materials, **to the end that no such pictures, programs and**

materials as are determined by the BOARD to be objectionable in accordance with paragraph (c) hereof shall be x x x produced, copied, reproduced, distributed, sold, leased, **exhibited and/or broadcast by television**;

x x x x

k) To exercise such powers and functions as may be necessary or incidental to the attainment of the purposes and objectives of this Act x x x. (Emphasis added.)

The issuance of a preventive suspension comes well within the scope of the MTRCB's authority and functions expressly set forth in PD 1986, more particularly under its Sec. 3(d), as quoted above, which empowers the MTRCB to "supervise, regulate, and grant, deny or cancel, permits for the x x x exhibition, and/or television broadcast of all motion pictures, television programs and publicity materials, to the end that no such pictures, programs and materials as are determined by the BOARD to be objectionable in accordance with paragraph (c) hereof shall be x x x exhibited and/or broadcast by television."

Surely, the power to issue preventive suspension forms part of the MTRCB's express regulatory and supervisory statutory mandate and its investigatory and disciplinary authority subsumed in or implied from such mandate. Any other construal would render its power to regulate, supervise, or discipline illusory.

Preventive suspension, it ought to be noted, is not a penalty by itself, being merely a preliminary step in an administrative investigation.^[15] And the power to discipline and impose penalties, if granted, carries with it the power to investigate administrative complaints and, during such investigation, to preventively suspend the person subject of the complaint.^[16]

To reiterate, preventive suspension authority of the MTRCB springs from its powers conferred under PD 1986. The MTRCB did not, as petitioner insinuates, empower itself to impose preventive suspension through the medium of the IRR of PD 1986. It is true that the matter of imposing preventive suspension is embodied only in the IRR of PD 1986. Sec. 3, Chapter XIII of the IRR provides:

Sec. 3. PREVENTION SUSPENSION ORDER.—Any time during the pendency of the case, and in order to prevent or stop further violations or for the interest and welfare of the public, the Chairman of the Board may issue a Preventive Suspension Order mandating the preventive x x x suspension of the permit/permits involved, and/or closure of the x x x television network, cable TV station x x x provided that the temporary/preventive order thus issued shall have a life of not more than twenty (20) days from the date of issuance.

But the mere absence of a provision on preventive suspension in PD 1986, without more, would not work to deprive the MTRCB a basic disciplinary tool, such as preventive suspension. Recall that the MTRCB is expressly empowered by statute to regulate and supervise television programs to obviate the exhibition or broadcast of, among others, indecent or immoral materials and to impose sanctions for violations and, corollarily, to prevent further violations as it investigates. Contrary to