**Digest – G.R. No. 205728**

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| G.R. Number | G.R. No. 205728 |
| Date of Trial | January 21, 2015 |
| Court Level | Supreme Court |
| Division | En Banc |
| Is En Banc | Yes |
| Petitioners | The Diocese Of Bacolod, Represented By The Most Rev. Bishop Vicente M. Navarra And The Bishop Himself In His Personal Capacity, Petitioners |
| Respondents | Commission On Elections And The Election Officer Of Bacolod City, Atty. Mavil V. Majarucon, Respondents. |
| Presiding Judge | Leonen J. |

**FACTS**

\* \*\*Who:\*\* The Diocese of Bacolod, represented by Bishop Vicente M. Navarra, and the Bishop himself, are the petitioners. The Commission on Elections (COMELEC) and the Election Officer of Bacolod City, Atty. Mavil V. Majarucon, are the respondents.  
\* \*\*What:\*\* The Diocese of Bacolod posted two tarpaulins on the front walls of the San Sebastian Cathedral within public view. One tarpaulin advocated against the Reproductive Health Law. The other tarpaulin listed candidates as "(Anti-RH) Team Buhay" or "(Pro-RH) Team Patay" based on their vote on the RH Law. COMELEC issued a Notice to Remove Campaign Materials ordering the removal of the "Team Patay" tarpaulin because it was oversized.  
\* \*\*When:\*\* The tarpaulins were posted on February 21, 2013. The Notice to Remove Campaign Materials was issued on February 22, 2013, ordering the removal within three days. A letter from the COMELEC Law Department was issued on February 27, 2013, ordering immediate removal, or an election offense case would be filed.  
\* \*\*Where:\*\* The tarpaulins were posted within a private compound housing the San Sebastian Cathedral of Bacolod City, Philippines.  
\* \*\*Additional Facts:\*\* The tarpaulin was approximately six feet (6') by ten feet (10') in size. COMELEC Resolution No. 9615 provides that the size requirement for election propaganda is two feet (2’) by three feet (3’). The tarpaulin was neither sponsored nor paid for by any candidate. The tarpaulin contains names of candidates for the 2013 elections.

**ISSUES**

The legal issues addressed and resolved by the court in this ruling can be categorized as follows:  
  
\*\*I. Procedural Issues:\*\*  
  
\* \*\*Exhaustion of Administrative Remedies:\*\* The court addressed whether the petitioners were required to exhaust administrative remedies by first bringing the matter to the COMELEC En Banc or any of its divisions before seeking judicial relief. The court resolved that the principle of exhaustion of administrative remedies did not apply in this case because the controversy was ripe for adjudication, the impending threat of criminal litigation curtailed the petitioners’ speech, and the need to protect the fundamental right of political speech outweighed the requirement for exhaustion. It also found exceptions to the exhaustion doctrine applicable, such as the purely legal question of violation of freedom of expression, the urgency of judicial intervention, and the unreasonableness of requiring exhaustion in this context.  
  
\*\*II. Substantive Issues:\*\*  
  
\* \*\*COMELEC's Authority to Regulate Expressions of Private Citizens:\*\* The central substantive issue was whether the COMELEC had the legal authority to regulate the expressions made by private citizens who were not candidates or members of political parties, specifically regarding the posting of the tarpaulin. The court resolved that the COMELEC did not have such authority. The constitutional and statutory provisions cited by the COMELEC (Article IX-C, Sections 2(7) and 4 of the Constitution; Section 9 of the Fair Election Act; Section 17 of COMELEC Resolution No. 9615) were found to pertain only to candidates and political parties, not to private citizens exercising their right to freedom of expression.  
\* \*\*Violation of the Right to Freedom of Speech and Expression:\*\* The court addressed whether the COMELEC's notice and letter ordering the removal of the tarpaulin violated the petitioners' fundamental right to freedom of expression. The court concluded that it did.  
  
 \* \*\*Content-Based vs. Content-Neutral Regulation\*\*: The Court considered arguments related to whether the regulation was content-based or content-neutral, however, the decision was not determined by whether it was one or the other.  
 \* \*\*Scope of Freedom of Expression:\*\* The court discussed the breadth of the constitutional protection for freedom of expression, including the freedom of speech and of the press, and emphasized that this protection extends to various forms of communication, including symbolic speech and conduct.  
 \* \*\*Importance of Size in Expression:\*\* The court addressed the role of size in the effectiveness of communication. It concluded that the size of the tarpaulin was an integral part of the message being conveyed and thus merited protection under the freedom of expression.  
 \* \*\*Political Speech and Election Propaganda:\*\* The court drew a distinction between political speech and election propaganda, concluding that the tarpaulin was primarily political speech, designed to comment on a matter of public concern (the RH Law), and not election propaganda intended to promote or oppose particular candidates in return for consideration.  
 \* \*\*Hierarchy of Protected Speech\*\*: The Court emphasized the high degree of protection afforded to political speech, which fosters informed and civic-minded deliberation on public issues.

**RULINGS**

Here's a breakdown of the legal issues, resolutions, rulings, and the dispositive portion of the decision based on the provided text:  
  
\*\*Legal Issues & Resolutions:\*\*  
  
1. \*\*Issue:\*\* Whether the COMELEC's act of ordering the removal of the tarpaulin due to size limitations constitutes an unconstitutional restriction on freedom of expression of non-candidates.  
 \* \*\*Resolution:\*\* The Court found that the COMELEC's size regulations on the tarpaulin constitute a content-based restriction on speech, which is presumptively invalid. The Court further held that even if the regulations were content-neutral, they still failed the intermediate scrutiny test because they were not within the COMELEC's constitutional powers, did not further a compelling governmental interest, were not unrelated to the suppression of free expression, and were not the least restrictive means to achieve the objective.  
 \* \*\*Ruling/Holding:\*\* Size limitations on tarpaulins posted by non-candidates that express opinions on social issues relevant to elections constitute an unconstitutional restriction on freedom of expression. The Court held that such regulation is inconsistent with the guarantee of according the fullest possible range of opinions coming from the electorate.  
  
2. \*\*Issue:\*\* Whether the COMELEC's actions infringed upon the petitioners' right to property.  
 \* \*\*Resolution:\*\* The Court held that the COMELEC's order to remove the tarpaulin from the petitioners' private property was an impermissible encroachment on their right to property. The Court cited the fact that the petitioners owned the property and had not been commissioned or paid to post the material.  
 \* \*\*Ruling/Holding:\*\* Restraining private citizens from posting tarpaulins expressing their views on social issues relevant to elections on their own private property is an unconstitutional infringement on their right to property.  
  
3. \*\*Issue:\*\* Whether the COMELEC's actions violated the petitioners' right to the free exercise of religion.  
 \* \*\*Resolution:\*\* The Court found that the tarpaulin's message, on its face, did not convey any religious doctrine of the Catholic Church. While the position of the Catholic Church may have coincided with the message of the tarpaulin regarding the Reproductive Health Law, this alone did not qualify the posting as religious speech. The tarpaulin's reference to candidates classified under "Team Patay" and "Team Buhay" according to their votes on the RH Law indicated its nature as speech with political consequences, not religious speech.  
 \* \*\*Ruling/Holding:\*\* The posting of a tarpaulin by members of a religious organization expressing views on political candidates' positions on a social issue relevant to elections is not religious speech, but political speech protected by the constitutional guarantee of freedom of expression.  
  
\*\*Dispositive Portion:\*\*  
  
"WHEREFORE, the instant petition is GRANTED. The temporary restraining order previously issued is hereby made permanent. The act of the COMELEC in issuing the assailed notice dated February 22, 2013 and letter dated February 27, 2013 is declared unconstitutional.  
  
SO ORDERED."