

REPUBLIC OF THE PHILIPPINES
National Capital Judicial Region
REGIONAL TRIAL COURT
Branch 116, Quezon City

IGLESIA NI CRISTO,
Represented by Atty.
RESTITUTO S. LAZARO,
Plaintiff,

v.

CIVIL CASE NO. Q-05-55420

ROSS TIPON and J. C.
PALABAY ENTERPRISES,
INC., represented by its
President, JESSIE C.
PALABAY,
Defendants.

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**OPPOSITION TO THE ISSUANCE OF A
WRIT OF PRELIMINARY INJUNCTION
and
SUPPLEMENTARY MOTION TO DISMISS**

Defendant Ross Tipon, by counsel, unto this Honorable Court
respectfully alleges:

“The liberty of the press is indeed essential to the
nature of a free state: but this consists in laying no
previous restraint upon publication.....”

BLACKSTONE, Commentaries, bk. 4, 151.

At issue here is whether a court may restrain the printing, distribution
and sale of a book without infringing the freedom of the press as provided in
Article 3, Section 3 of the Constitution that:

“No law shall be passed abridging the freedom of
speech, of expression or of the press, or the right of the
people peaceably to assemble and petition the
government for redress of grievances.”

Section 4 guarantees include not only publication but also distribution or circulation. The right of freedom of speech and press includes not only the right to utter or to print, but also the right to distribute, the right to receive, the right to read, and freedom of inquiry, freedom of thought, and freedom to teach – indeed the freedom of the entire university community.¹

The constitutional guarantees of freedom of speech and of the press were intended generally to put an end to restraints and limitations which at one time in English history had been imposed on the right of public speaking and writing; they have contributed greatly to the development and well-being of our free society and are indispensable to its continued growth. The safeguarding of free speech and a free press is a national constitutional policy. These freedoms – which are available to all, and not merely to those who “can pay their own way” – have a preferred position, and they are such intimate elements of liberty that there is an instinctive and instant revolt from any limitation of them, either by law or a charge under the law.²

The plaintiff is an oddity. What it wants this Court to do – censor or prohibit the publication of a book – is the very same thing that it objected to when the Board of Review for Moving Pictures and Television x-rated its TV program, “*Ang Iglesia ni Cristo*” on the ground that it offended other religions. The plaintiff wants now to reverse the situation. Indeed, “The slaves of today will be the tyrants of tomorrow.”

¹ Santiago, *Constitutional Law*, 2d ed., page 497 quoting *South Holland v. Stein*, 373 Ill. 492 and *Griswold v. Connecticut*, 381 U.S. 479.

² 16 Am Jur 2d, *Constitutional Law*, §342

Said Justice Reynato Puno, speaking for the Supreme Court in *Iglesia Ni Cristo v. Court of Appeals*:³

“Deeply ensconced in our fundamental law is its hostility against all prior restraints on speech, including religious speech. Hence, any act that restrains speech is hobbled by the presumption of invalidity and should be greeted with furrowed brows.”

The ground relied upon for the issuance of a writ of preliminary injunction is that the publication of the book that allegedly contains “lies and/or defamatory, fabricated and false statements” tends to dishonor, discredit and besmirch the good name of the plaintiff if the defendants were allowed during the pendency of the case to print/publish, sell, distribute or disseminate the said book

If judicial proceedings were a game of poker, the plaintiff has shown its hand by the use of the phrase “tends to dishonor, discredit and besmirched” (*sic*) its (the INC) name, his (Felix Manalo) memory, name and reputation and that of executive minister. What it really wants is to file an action for damages based on the provision of the Revised Penal Code but the instant action is premature. It should wait until the book *The Power And The Glory: The Cult of Manalo* is printed, published and sold to the public who will determine, in the final analysis if the said book is indeed libelous.

There might be some kind of allowable control over broadcast owing to technology which necessitates the allocation of frequency channels and might justify the existence of a review board but in the print medium there is no limitation on what the traffic can bear so any form of prior restraint is anathema to the Constitution.

³ 259 SCRA 529 (1996)

In all cases of prior restraint it is the State that asks for it on **grounds of national security and public order**, but an individual private litigant seeking immunity from imagined hurts is unheard of in the annals of the judiciary of any civilized country.

Plaintiff asks for injunction against circulation of the book but freedom of speech would be meaningless without the freedom to circulate the material.⁴

Plaintiff even makes the absurd demand that the herein defendant delivers to the Court his manuscripts. These are private properties. And delivering it to court is an intrusion on his right to privacy.

Plaintiff prevents defendant from exercising his occupation as a writer thus denying him the right to livelihood, a gross violation of Human Rights.

PLAINTIFF NOT ENTITLED TO AN INJUNCTION.

The plaintiff is not entitled to the issuance of a writ of preliminary injunction. It will not suffer grave injustice and irreparable injury as borne out in the allegations of its complaint:

The documents attached as Annexes B and C of the complaint⁵ were obtained thru the perfidy of the lawyer, Tiberio U. Prado,⁶ retained by the defendants to draft the agreement. He was bound under his oath not to reveal

⁴ 16 Am Jur 2d §345 citing *Talley vs, California*, 362 US 60, 4 L. ed. 2d 559. **“The right of free speech is guaranteed every citizen, that he may reach the minds of willing listeners, and to do so there must be opportunity to win their attention.”** (Kovacs v. Cooper, 336 US 77, 93 L ed 513, 69 S Ct448)..

⁵ Paragraph 4, Complaint.

⁶ Of Burgos, Pangasinan. Admitted to the Bar on March 9, 1972.

the contents thereof, Having been illegally procured by plaintiff, they are inadmissible as evidence.⁷

But assuming they are admissible:

The quotations on paragraph 4-a of the complaint⁸ are out of context. The "author" did not say that Felix Manalo and Hitler are totally or even largely congruent figures as plaintiff avers. In fact the passage merely adverts to the fortuitous event occasioned by the changes of names of both persons and some of the ways both men form their ideas for public propagation, a legitimate literary device used by many historians and writers.

If there is any defamation committed it is entirely in the work of Atty. Restituto S. Lazaro, who extrapolated the passages from the manuscript he obtained through subterfuge, and came up with the conclusion that Felix Manalo and Adolf Hitler are near exactly alike.

Paragraph 4-b⁹ is quoted out of context and in any case is not defamatory especially given the public character of the person spoken about.

Paragraph 4-c¹⁰ is partly out of context and does not explain its antecedents which are explanations why Manalo wandered from denomination to denomination. In any case, even if quoted out of context it is still not defamatory and "author" took effort to find the source of the description for Manalo. In truth even apostles of Christianity were accused and had admitted to some kind of moral infirmities until they saw the light.

⁷ Defendant reserves his right to file an action for damages and disbarment proceedings against the lawyer Tiberio U. Prado for violating the Rules of Court on privilege communication between lawyer and client and the Canons of Judicial Ethics.

⁸ Page 8, Complaint

⁹ Page 9, Complaint

¹⁰ Page 10, Complaint

Does plaintiff want to command all writers to write only that Manalo was conceived in purity and was pure as driven snow all the hours of his life?

In paragraph 4-d¹¹ defendant asks: Is there anything defamatory in the words the plaintiff bases its complaint? The "author" merely makes use of storytelling techniques.

Paragraph 4-e¹² is quoted out of context. Plaintiff did not show how the words and phrases came to be used. It did not attempt because that would have made their usages very apt logical and certainly not defamatory.

In paragraph 4-f,¹³ plaintiff equates being a "playboy" and a "womanizer", the latter word "author" never used. Other parts are not defamatory by a long stretch of the imagination.

In paragraph 4-g,¹⁴ how can the phrase "probably to plagiarize" be defamatory? It was placed as part of storytelling technique to fill up the gap of Manalo's life in the United States as plaintiff for all purposes admit that the claim of having attended the Pacific School of Religion at Berkeley, California was a falsity.

In paragraph 4-i¹⁵ the Plaintiff takes offense at the suggested reasons for the Iglesia ni Kristo's anti-unionism. He says that there are "doctrinal reasons" but never even tries to explain them. Indeed, when defendant asked Manalo in a letter whose sending was suggested by the Plaintiff's counsel Restituto Lazaro, who came to see the defendant wholly at his own initiative

¹¹ Pages 10-11, Complaint

¹² Page 11, Complaint

¹³ Page 11-12, Complaint

¹⁴ Page 12, Complaint

¹⁵ Page 13, Complaint

in Baguio City, Manalo never answered. Portions of the letter addressed to Manalo pertaining to this sect's anti-unionism reads:

“ . . . you forbid your members from joining labor unions. Most religions allow, nay even encourage their members, to join the peaceful reasonable ones. As you know, one of the founders of the Philippine Independent Church who was also a leader in our independence movement, Fr. Isabelo de los Reyes, was himself a labor leader. Do you deny that responsible labor unionism contributes to our healthy democracy?

“The civilized world endorses labor movements. Why is there an International Labor Organization under the UN? The government of the day in Great Britain calls itself the Labor Party and it had its origins in the labor movement. You mean to tell us that all the people associated with the aforementioned organizations are fools?”

Paragraph. 4-j¹⁶ is nothing but a querulous complaint where plaintiff adds his own words to make it sound malicious and the same goes for the remainder not mentioned earlier.

This work is in the genre of popular history of religion or a certain religion. It can be read also popular sociology of religion applied to a certain sect. It is not as the plaintiff suggests a hatchet job on the Manalos and their sect. In some passages it even commends their religion for being more modern in outlook. The work must be taken in totality, not the disjointed segments that plaintiff presents.

CONCLUSION

The plaintiff has not alleged sufficient facts to entitle it to the issuance of a writ of preliminary injunction.

¹⁶ Page 13-14, Complaint.

In fact, restraining the publication of a well-written and well-researched book will cause grave irreparable injury to defendant Ross Tipon as plaintiff wants to gag him in violation of his Constitutional right of free speech and freedom of the press.

PLAINTIFF IS NOT THE REAL PARTY IN INTEREST

The Rules of Court provides that every action must be prosecuted and defended in the name of the real party in interest. By “real party in interest” is meant that a party has a real interest in the subject matter of the action. The real party in interest is the party who would be benefited or injured by the judgment or is the party entitled to the avails of the suit.¹⁷

The allegations in the complaint themselves pertain not to the Iglesia Ni Cristo doctrinal matters but to Felix Manalo and Eraño Manalo. They are the real parties in interest. In the case of deceased Felix Manalo, it should be his Estate. The plaintiff would not be benefited by any judgment. Nor is it entitled to the avails of the suit.

PLAINTIFF HAS NO CAUSE OF ACTION.

A cause of action is the delict or wrong by which one party violates the rights of the other. Having shown that plaintiff is not the real party in interest, it cannot seek relief from this Honorable Court. Moreover, the allegations in the complaint do not show that the plaintiff has any right or that the defendant has committed a wrong for the simple reason that the book has not been printed, distributed and sold to the public.

Plaintiff (or for that matter, the Estate of Felix Manalo or Eraño Manalo) should wait until the book is published.

¹⁷ Moran, Comments on the Rules of Court, 1979 Ed., p. 154

WHEREFORE, it is respectfully prayed that the application for the issuance of a writ of preliminary injunction be DENIED and the complaint DISMISSED.

Manila for Quezon City, June 6, 2005.

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¹⁸ **Only for the purpose of preparing and submitting this pleading. The counsel who formally entered his appearance remains the counsel of record.**