

Title: Diocese of Bacolod v. COMELEC: A Case on Expression and Election Regulation

Facts:

The case originated when the Diocese of Bacolod, through Bishop Vicente M. Navarra, posted two tarpaulins within the premises of the San Sebastian Cathedral of Bacolod City on February 21, 2013. The tarpaulins listed names of senatorial candidates and party-list groups for the May 2013 elections, categorized under “Team Buhay” with a check mark for those opposing the Reproductive Health Law, and “Team Patay” with an “X” mark for those supporting the law.

On February 22, 2013, Atty. Mavil V. Majarucon, the Election Officer of Bacolod City, issued a notice to remove campaign materials to Bishop Navarra, claiming the tarpaulin’s size violated COMELEC Resolution No. 9615, which specifies a 2×3 feet size limit for campaign materials. The Diocese responded, seeking clarification and requesting to maintain the tarpaulin pending resolution and legal recourse. On February 27, 2013, the COMELEC Law Department reiterated the order for immediate removal, threatening election offense charges.

Contesting these actions, the Diocese initiated a special civil action for certiorari and prohibition before the Supreme Court, arguing that the COMELEC’s actions unduly restricted their freedom of expression. The Supreme Court issued a temporary restraining order against the COMELEC’s notices on March 5, 2013, and heard oral arguments.

Issues:

1. Whether the COMELEC has authority to regulate expressions made by citizens (not candidates) during the election period.
2. Whether the regulation of the tarpaulin size constitutes an infringement on freedom of expression.
3. Whether the COMELEC’s action violates the principle of separation of church and state.

Court’s Decision:

The Supreme Court ruled in favor of the Diocese of Bacolod, holding that:

1. The COMELEC does not possess the authority to regulate expressions made by non-candidates such as the Diocese, emphasizing the preferred right to freedom of expression, especially during election periods.
2. The regulation of tarpaulin size imposed by the COMELEC constituted an infringement on freedom of expression. The Court explained that the size of the tarpaulin was integral to the

effectiveness of the expression, and no compelling state interest justifies such restriction.

3. The action of posting the tarpaulin falls within the Church's exercise of freedom of expression and does not violate the principle of separation of church and state.

**Doctrine:**

This case reinforced the doctrine that freedom of expression, especially in the context of elections, is a preferred right that should not be unduly restricted. Government actions, including those by the COMELEC, that infringe upon this freedom must be justified by a compelling state interest, which was not demonstrated in this case.

**Class Notes:**

- Freedom of expression includes actions and symbols, and not just verbal and written speech.
- The Supreme Court employs a high level of scrutiny for laws or actions that regulate speech based on content.
- Regulations entailing freedom of expression must undergo a clear and present danger test or an intermediate approach test, depending on whether the regulation is content-based or content-neutral.
- The principle of separation of church and state does not prevent religious institutions from participating in public discourse, including election-related issues.
- COMELEC's regulatory powers are limited to candidates and political parties during elections and do not extend to private individuals or entities expressing their views.

**Historical Background:**

This case underscores the tension between election regulation intended to ensure free and fair elections and the constitutional guarantees of freedom of expression. It highlights the evolving jurisprudence on political speech and the autonomy of religious institutions in political discourse within the context of Philippine democracy.