

MARTIN CENTENO, PETITIONER, VS. HON. VICTORIA VILLALON--PORNILLOS, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MALOLOS, BULACAN, BRANCH 10, AND THE PEOPLE OF THE PHILIPPINES,...

G.R. No. 113092. September 01, 1994

Ponente: REGALADO, J.

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REGALADO, J.:

It is indeed unfortunate that a group of elderly men, who were moved by their desire to devote their remaining years to the service of their Creator by forming their own civic organization for that purpose, should find themselves enmeshed in a criminal case for making a solicitation from a community member allegedly without the required permit from the Department of Social Welfare and Development.

The records of this case reveal that sometime in the last quarter of 1985, the officers of a civic organization known as the Samahang Katandaan ng Nayon ng Tikay launched a fund drive for the purpose of renovating the chapel of Barrio Tikay, Malolos, Bulacan. Petitioner Martin Centeno, the chairman of the group, together with Vicente Yco, approached Judge Adoracion G. Angeles, a resident of Tikay, and solicited from her a contribution of P1,500.00. It is admitted that the solicitation was made without a permit from the Department of Social Welfare and Development.

As a consequence, based on the complaint of Judge Angeles, an information[1] was filed against petitioner Martin Centeno, together with Religio Evaristo and Vicente Yco, for violation of Presidential Decree No. 1564, or the Solicitation Permit Law, before the Municipal Trial Court of Malolos, Bulacan, Branch 2, and docketed as Criminal Case No. 2602. Petitioner filed a motion to quash the information[2] on the ground that the facts alleged therein do not constitute an offense, claiming that Presidential Decree No. 1564 only covers solicitations made for charitable or public welfare purposes, but not those made for a religious purpose such as the construction of a chapel. This was denied[3] by the trial court, and petitioner's motion for reconsideration having met the same fate, trial on the merits ensued.

On December 29, 1992, the said trial court rendered judgment[4] finding accused Vicente Yco and petitioner Centeno guilty beyond reasonable doubt and sentencing them to each pay a fine of P200.00. Nevertheless, the trial court recommended that the accused be pardoned on the basis of its finding that they acted in good faith, plus the fact that it believed that the latter should not have been criminally liable were it not for the existence of Presidential Decree No. 1564 which the court opined it had the duty to apply in the instant case.

Both accused Centeno and Yco appealed to the Regional Trial Court of Malolos, Bulacan, Branch 10. However, accused Yco subsequently withdrew his appeal, hence the case proceeded only with respect to petitioner Centeno. On May 21, 1993, respondent nudge Villalon-Pornillos affirmed the decision of the lower court but modified the penalty, allegedly because of the perversity of the act committed which caused damage and prejudice to the complainant, by sentencing petitioner Centeno to suffer an increased penalty of imprisonment of 6 months and a

fine of P1,000.00, without subsidiary imprisonment in case of insolvency.[5] The motion for reconsideration of the decision was denied by the court.[6]

Thus it is that a fine of P200.00 imposed as a penalty by the lowest court in the judicial hierarchy eventually reached this highest tribunal, challenged on the sole issue of whether solicitations for religious purposes are within the ambit of Presidential Decree No. 1564. Quantitatively, the financial sanction is a nominal imposition but, on a question of principle, it is not a trifling matter. This Court is gratified that it can now grant this case the benefit of a final adjudication.

Petitioner questions the applicability of Presidential Decree No. 1564 to solicitations for contributions intended for religious purposes with the submissions that (1) the term “religious purpose” is not expressly included in the provisions of the statute, hence what the law does not include, it excludes; (2) penal laws are to be construed strictly against the State and liberally in favor of the accused; and (3) to subject to State regulation solicitations made for a religious purpose would constitute an abridgment of the right to freedom of religion guaranteed under the Constitution.

Presidential Decree No. 1564 (which amended Act No. 4075, otherwise known as the Solicitation Permit Law), provides as follows:

“Sec. 2. Any person, corporation, organization, or association desiring to solicit or receive contributions for charitable or public welfare purposes shall first secure a permit from the Regional Offices of the Department of Social Services and Development as provided in the Integrated Reorganization Plan. Upon the filing of a written application for a permit in the form prescribed by the Regional Offices of the Department of Social Services and Development, the Regional Director or his duly authorized representative may, in his discretion, issue a permanent or temporary permit or disapprove the application. In the interest of the public, he may in his discretion renew or revoke any permit issued under Act 4075.”

The main issue to be resolved here is whether the phrase “charitable purposes” should be construed in its broadest sense so as to include a religious purpose. We hold in the negative.

I. Indeed, it is an elementary rule of statutory construction that the express mention of one person, thing, act, or consequence excludes all others. This rule is expressed in the familiar maxim “expressio unius est exclusio alterius.” Where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to others. The rule proceeds from the premise that the legislature would not have made specified enumerations in a statute had the intention been not to restrict its meaning and to confine its terms to those expressly mentioned.[7]

It will be observed that the 1987 Constitution, as well as several other statutes, treat the words “charitable” and “religious” separately and independently of each other. Thus, the word “charitable” is only one of three descriptive words used in Section 28 (3), Article VI of the Constitution which provides that “charitable institutions, churches and parsonages x x x, and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.” There are certain provisions in statutes wherein these two terms are likewise dissociated and individually mentioned, as for instance, Sections 26 (e) (corporations exempt from income tax) and 28 (8) (E) (exclusions from gross income) of the National Internal Revenue Code; Section 88 (purposes for the organization of non-stock corporations) of the Corporation Code; and Section 234 (b) (exemptions from real property tax) of the Local Government Code.

That these legislative enactments specifically spelled out “charitable” and “religious” in an enumeration, whereas Presidential Decree No. 1564 merely stated “charitable or public welfare purposes,” only goes to show that the framers of the law in question never intended to include solicitations for religious purposes within its coverage.

Otherwise, there is no reason why it would not have so stated expressly.

All contributions designed to promote the work of the church are “charitable” in nature, since religious activities depend for their support on voluntary contributions.[8] However, “religious purpose” is not interchangeable with the expression “charitable purpose.” While it is true that there is no religious purpose which is not also a charitable purpose, yet the converse is not equally true, for there may be a “charitable” purpose which is not “religious” in the legal sense of the term.[9] Although the term “charitable” may include matters which are “religious,” it is a broader term and includes matters which are not “religious,” and, accordingly, there is a distinction between “charitable purpose” and “religious purpose,” except where the two terms are obviously used synonymously, or where the distinction has been done away with by statute.[10] The word “charitable,” therefore, like most other words, is capable of different significations. For example, in the law, exempting charitable uses from taxation, it has a very wide meaning, but under Presidential Decree No. 1564 which is a penal law, it cannot be given such a broad application since it would be prejudicial to petitioners.

To illustrate, the rule is that tax exemptions are generally construed strictly against the taxpayer. However, there are cases wherein claims for exemption from tax for “religious purposes” have been liberally construed as covered in the law granting tax exemptions for “charitable purposes.” Thus, the term “charitable purposes,” within the meaning of a statute providing that the succession of any property passing to or for the use of any institution for purposes only of public charity shall not be subject to succession tax, is deemed to include religious purposes.[11] A gift for “religious purposes” was considered as a bequest for “charitable use” as regards exemption from inheritance tax.[12]

On the other hand, to subsume the “religious” purpose of the solicitation within the concept of “charitable” purpose which under Presidential Decree No. 1564 requires a prior permit from the Department of Social Services and Development; under pain of penal liability in the absence thereof, would be prejudicial to petitioner. Accordingly, the term “charitable” should be strictly construed so as to exclude solicitations for “religious” purposes. Thereby, we adhere to the fundamental doctrine underlying virtually all penal legislations that such interpretation should be adopted as would favor the accused.

For, it is a well-entrenched rule that penal laws are to be construed strictly against the State and liberally in favor of the accused. They are not to be extended or enlarged by implications, intendments, analogies or equitable considerations. They are not to be strained by construction to spell out a new offense, enlarge the field of crime or multiply felonies. Hence, in the interpretation of a penal statute, the tendency is to subject it to careful scrutiny and to construe it with such strictness as to safeguard the rights of the accused. If the statute is ambiguous and admits of two reasonable but contradictory constructions, that which operates in favor of a party accused under its provisions is to be preferred. The principle is that acts in and of themselves innocent and lawful cannot be held to be criminal unless there is a clear and unequivocal expression of the legislative intent to make them such. Whatever is not plainly within the provisions of a penal statute should be regarded as without its intendment.[13]

The purpose of strict construction is not to enable a guilty person to escape punishment through a technicality but to provide a precise definition of forbidden acts.[14] The word “charitable” is a matter of description rather than of precise definition, and each case involving a determination of that which is charitable must be decided on its own, particular facts and circumstances.[15] The law does not operate in vacuo nor should its applicability be determined by circumstances in the abstract.

Furthermore, in the provisions of the Constitution and the statutes mentioned above, the enumerations therein given which include the words “charitable” and “religious” make use of the disjunctive “or.” In its elementary sense, “or” as used in a statute is a disjunctive article indicating an alternative. It often connects a series of words

or propositions indicating a choice of either. When “or” is used, the various members of the enumeration are to be taken separately.[16] Accordingly, “charitable” and “religious,” which are integral parts of an enumeration using the disjunctive “or” should be given different, distinct, and disparate meanings. There is no compelling consideration why the same treatment or usage of these words cannot be made applicable to the questioned provisions of Presidential Decree No. 1564.

II. Petitioner next avers that solicitations for religious purposes cannot be penalized under the law for, otherwise, it will constitute an abridgment or restriction on the free exercise clause guaranteed under the Constitution.

It may be conceded that the construction of a church is a social concern of the people and, consequently, solicitations appurtenant thereto would necessarily involve public welfare. Prefatorily, it is not implausible that the regulatory powers of the State may, to a certain degree, extend to solicitations of this nature. Considering, however, that such an activity is within the cloak of the free exercise clause under the right to freedom of religion guaranteed by the Constitution, it becomes imperative to delve into the efficaciousness of a statutory grant of the power to regulate the exercise of this constitutional right and the allowable restrictions which may possibly be imposed thereon.

The constitutional inhibition of legislation on the subject of religion has a double aspect. On the one hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religious organization or form of worship as the individual may choose cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus, the constitution embraces two concepts, that is, freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society. The freedom to act must have appropriate definitions to preserve the enforcement of that protection. In every case, the power to regulate must be so exercised, in attaining a permissible end, as not to unduly infringe on the protected freedom.[17]

Whence, even the exercise of religion may be regulated, at some slight inconvenience, in order that the State may protect its citizens from injury. Without doubt, a State may protect its citizens from fraudulent solicitation by requiring a stranger in the community, before permitting him publicly to solicit funds for any purpose, to establish his identity and his authority to act for the cause which he purports to represent. The State is likewise free to regulate the time and manner of solicitation generally, in the interest of public safety, peace, comfort, or convenience.[18]

It does not follow, therefore, from the constitutional guaranties of the free exercise of religion that everything which may be so called can be tolerated.[19] It has been said that a law advancing a legitimate governmental interest is not necessarily invalid as one interfering with the “free exercise” of religion merely because it also incidentally has a detrimental effect on the adherents of one or more religion.[20] Thus, the general regulation, in the public interest, of solicitation, which does not involve any religious test and does not unreasonably obstruct or delay the collection of funds, is not open to any constitutional objection, even though the collection be for a religious purpose. Such regulation would not constitute a prohibited previous restraint on the free exercise of religion or interpose an inadmissible obstacle to its exercise.[21]

Even with numerous regulative laws in existence, it is surprising how many operations are carried on by persons and associations who, secreting their activities under the guise of benevolent purposes, succeed in cheating and defrauding a generous public. It is in fact amazing how profitable the fraudulent schemes and practices are to people who manipulate them. The State has authority under the exercise of its police power to determine whether or not there shall be restrictions on soliciting by unscrupulous persons or for unworthy causes or for fraudulent

purposes. That solicitation of contributions under the guise of charitable and benevolent purposes is grossly abused is a matter of common knowledge. Certainly the solicitation of contributions in good faith for worthy purposes should not be denied, but somewhere should be lodged the power to determine within reasonable limits the worthy from the unworthy.[22] The objectionable practices of unscrupulous persons are prejudicial to worthy and proper charities which naturally suffer when the confidence of the public in campaigns for the raising of money for charity is lessened or destroyed.[23] Some regulation of public solicitation is, therefore, in the public interest.[24]

To conclude, solicitation for religious purposes may be subject to proper regulation by the State in the exercise of police power. However, in the case at bar, considering that solicitations intended for a religious purpose are not within the coverage of Presidential Decree No. 1564, as earlier demonstrated, petitioner cannot be held criminally liable therefor.

As a final note, we reject the reason advanced by respondent judge for increasing the penalty imposed by the trial court, premised on the supposed perversity of petitioner's act which thereby caused damage to the complainant. It must be here emphasized that the trial court, in the dispositive portion of its decision, even recommended executive clemency in favor of petitioner and the other accused after finding that the latter acted in good faith in making the solicitation from the complainant, an observation with which we fully agree. After all, mistake upon a doubtful and difficult question of law can be the basis of good faith, especially for a layman.

There is likewise nothing in the findings of respondent judge which would indicate, impliedly or otherwise, that petitioner and his co-accused acted abusively or malevolently. This could be reflective upon her objectivity, considering that the complainant in this case is herself a judge of the Regional Trial Court at Kalookan City. It bears stressing at this point that a judge is required to so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary,[25] should be vigilant against any attempt to subvert its independence, and must resist any pressure from whatever source.[26]

WHEREFORE, the decision appealed from is hereby REVERSED and SET ASIDE, and petitioner Martin Centeno is ACQUITTED of the offense charged, with costs de oficio.

SO ORDERED.

Narvasa, C.J., (Chairman), and Puno, J., concur.

Padilla, J., joins J. Mendoza in his separate concurring opinion.

Mendoza, J., see separate concurring opinion.

[1] Annex A, Petition; Rollo, 25.

[2] Annex B, id.; ibid., 20.

[3] Annex D, id.; ibid., 34.

[4] Annex G, id.; ibid., 40.

[5] Annex H, id.; ibid., 44.

[6] Annex J, id.; ibid., 64.

[7] Commissioner of Customs vs. Court of Tax Appeals, et al., G.R. Nos. 48886-88, July 21, 1993, 224 SCRA 665.

- [8] Scobey vs. Beckman, 41 N.E. 2d 84.
- [9] See Adye vs. Smith, 26 Am. Rep. 424.
- [10] See Read vs. McLean, 200 So. 109.
- [11] In re Seaman's Estate, 139 N.E. 2d 17.
- [12] In re Clark's Estate, 159 A. 500.
- [13] Martin, Statutory Construction, 1979 ed., 183.
- [14] Gaanan vs. Intermediate Appellate Court, et al., G.R. No. 69809, October 16, 1986, 145 SCRA 112.
- [15] Topeka Presbyterian Manor, Inc. vs. Board, 402 P. ed 802.
- [16] Martin, op. cit., 81.
- [17] Cantwell vs. Connecticut, 301 U.S. 296 (1940).
- [18] Id., loc. cit.
- [19] 16 Am. Jur. 2d, Constitutional Law, 283.
- [20] Ibid., id., 282.
- [21] Cantwell vs. Connecticut, supra.
- [22] Id., loc. cit.
- [23] City of Seattle vs. Rogers, 106 P. 2d 598.
- [24] Commonwealth vs. Creighton, et al., 170 A. 720.
- [25] Rule 2.01, Code of Judicial Conduct.
- [26] Rule 1.03. id.

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concurring OPINION

MENDOZA, J.:

I concur in the result reached in this case that the solicitation of donations for the repair of a chapel is not covered by P.D. No. 1564 which requires a permit for the solicitation of contributions for "charitable or public welfare purposes." My reasons are three-fold.

First. Solicitation of contributions for the construction of a church is not solicitation for "charitable or public welfare purpose" but for a religious purpose, and a religious purpose is not necessarily a charitable or public welfare purpose. A fund campaign for the construction or repair of a church is not like fund drives for needy families or victims of calamity or for the construction of a civic center and the like. Like solicitation of subscription to religious magazines, it is part of the propagation of religious faith or evangelization. Such solicitation calls upon the virtue of faith, not of charity, save as those solicited for money or aid may not belong to the same religion as the solicitor. Such solicitation does not engage the philanthropic as much as the religious fervor of the person who is solicited for contribution.

Second. The purpose of the Decree is to protect the public against fraud in view of the proliferation of fund campaigns for charity and other civic projects. On the other hand, since religious fund drives are usually conducted among those belonging to the same religion, the need for public protection against fraudulent solicitations does not exist in as great a degree as does the need for protection with respect to solicitations for charity or civic projects so as to justify state regulation.

Third. To require a government permit before solicitation for religious purpose may be allowed is to lay a prior restraint on the free exercise of religion. Such restraint, if allowed, may well justify requiring a permit before a church can make Sunday collections or enforce tithing. But in *American Bible Society v. City of Manila*,^[1] we precisely held that an ordinance requiring payment of a license fee before one may engage in business could not be applied to the appellant's sale of bibles because that would impose a condition on the exercise of a constitutional right. It is for the same reason that religious rallies are exempted from the requirement of prior permit for public assemblies and other uses of public parks and streets.^[2] To read the Decree, therefore, as including within its reach solicitations for religious purposes would be to construe it in a manner that it violates the Free Exercise of Religion Clause of the Constitution, when what we are called upon to do is to ascertain whether a construction of the statute is not fairly possible by which a constitutional violation may be avoided.

For these reasons, I vote to reverse the decision appealed from and to acquit petitioner.

[1] 101 Phil. 386 (1957).

[2] B.P. Blg. 880, § 3(a).

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