

Republic of the Philippines  
Supreme Court  
Manila

EN BANC

NOTICE

Sirs/Mesdames:

*Please take notice that the Court en banc issued a Resolution dated JUNE 30, 2020, which reads as follows:*

**“G.R. No. 252187 – (ATTY. PARIS G. REAL, petitioner v. HOUSE OF REPRESENTATIVES AND NATIONAL TELECOMMUNICATIONS COMMISSION, respondents).** – This is a consolidated petition<sup>1</sup> for mandamus, prohibition, and declaratory relief with an extremely urgent application for temporary restraining order, writ of preliminary mandatory injunction and *status quo ante order*.

Attorney Paris Real (Atty. Real) alleged that as early as 2016, the ABS-CBN Corporation attempted several times to renew its franchises with the House of Representatives. Yet, these were unsuccessful and not one of the bills made past the committee level.<sup>2</sup> On March 10, 2020, the House conducted its very first hearing on the renewal bills. Thereat, the National Telecommunications Commission (NTC) promised that it shall issue a provisional authority to operate in favor of ABS-CBN.<sup>3</sup> On May 3, 2020, the Office of the Solicitor General advised the NTC against issuing a provisional authority to ABS-CBN absent a congressional franchise. The Office of the Solicitor General (OSG) likewise warned the NTC officials with prosecution under the Anti-Graft and Corrupt Practices Act should they issue any provisional authority.<sup>4</sup> On May 5, 2020, the NTC commenced Administrative Case No. 2020-008 against ABS-CBN after its legislative franchise expired. The NTC required ABS-CBN to show cause why its assigned frequencies should not be recalled and directed it to cease and desist from operating its radio and television stations.<sup>5</sup>

Hence, this recourse. Atty. Real argues that mandamus lies against the House because it failed to facilitate the proceedings on ABS-CBN's

<sup>1</sup> *Rollo*, pp. 22-24.

<sup>2</sup> *Id.* at 46-48.

<sup>3</sup> *Id.* at 50.

<sup>4</sup> *Id.* at 52.

<sup>5</sup> *Id.* at 53.

franchise renewal bills.<sup>6</sup> Also, prohibition lies to prevent NTC from withdrawing ABS-CBN's frequencies and assigning them to other entities. Moreover, the cease-and-desist order is void for being contrary to law<sup>7</sup> and the basic tenets of press freedom, principle of prior restraint, and the Universal Declaration of Human Rights. Worse, the order was implemented without notice and hearing.<sup>8</sup> At any rate, the running of prescriptive periods was interrupted or suspended because of the emergency laws.<sup>9</sup> Finally, the NTC does not have the authority to revoke any franchise without first filing a *quo warranto* petition.<sup>10</sup>

Anent the declaratory relief, Atty. Real raises the following questions: (1) whether it is constitutional for the Congress to: (a) approve a "provisional franchise" with its "first and second readings on the same day;" and (b) renew or extend a franchise that has "lapsed or expired";<sup>11</sup> and (2) whether the OSG has the power to warn the NTC Commissioners and other quasi-judicial officials or tribunals with any suit in order to persuade them to favor its legal positions.<sup>12</sup> On the prayer for injunctive relief, Atty. Real claims that ABS-CBN's franchises are not yet expired because the period has been suspended and tolled.<sup>13</sup> The cease-and-desist order resulted in the hemorrhaging of ABS-CBN's business in the amount of ₱35,000,000.00 per day. This is in addition to the pitiful plight of 11,017 displaced workers and innocent viewers.<sup>14</sup>

The petition merits outright dismissal.

Judicial review is not just a power but also a duty.<sup>15</sup> Yet, it does not

<sup>6</sup> *Id.* at 67. The petitioner cites *BF Homes, Inc. v. National Water Resources Council*, 238 Phil. 87 (1987), wherein the Supreme Court granted the mandamus and required the respondent to consider and deliberate upon the applications and to act accordingly, *i.e.*, to either approve or disapprove, and *Velasco v. Speaker Belmonte et al.*, 777 Phil. 169 (2016), which ruled that any person may file a verified petition for mandamus when any officer unlawfully neglects the performance of duty resulting from an office, trust, or station.

<sup>7</sup> The petitioner claims that the NTC's order was issued in violation of Proclamation No. 22, Proclamation No. 29, R.A. No. 11469, Administrative Order No. 30 s. 2020, Memorandum of the Executive Secretary dated March 28, 2020, NTC Memorandum Order No. 01-03-220, and NTC Memorandum Order No. 03-03-2020 (the "Emergency Laws").

<sup>8</sup> *Rollo*, p. 91.

<sup>9</sup> *Id.* at 96. The petitioner alleges that the declared policies of the R.A. No. 11469 in relation to issuances which prohibit rendition of judgments, issuances of orders, grant of benefits, and imposition of penalties during the community quarantine are applicable alike to holders of permits, licenses, certificates, and/or franchises.

<sup>10</sup> *Id.* at 123. The petitioner invokes *Divinagracia v. Consolidated Broadcasting System, Inc., et al.*, 602 Phil. 625, 667 (2009), where the Supreme Court ruled that the NTC does not have the authority to revoke any franchise without first filing a *quo warranto* petition.

<sup>11</sup> The petitioner cites Sec 11, Art XII and Sec 26, Art VI of the Constitution. The resolution of this constitutional issue is important to avoid a repetition of what happened to HB No. 6732 and to save public funds.

<sup>12</sup> *Rollo*, p. 155.

<sup>13</sup> *Id.* at 157-158.

<sup>14</sup> *Id.* at 159.

<sup>15</sup> Judicial power refers to the duty and power "to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government" (1987 Philippine Constitution, Article VIII, Section 1).

repose upon the courts a “*self-starting capacity*.”<sup>16</sup> Specifically, judicial review may be exercised only when the person challenging the act has the requisite legal standing which refers to a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement.<sup>17</sup> The party’s interest must also be material as distinguished from mere interest in the question involved, or a mere incidental interest. It must be personal and not based on a desire to vindicate the constitutional right of some third and unrelated party.<sup>18</sup>

In private suits, standing is governed by the “*real parties-in-interest*” rule as contained in the Rules of Civil Procedure.<sup>19</sup> The question as to real party-in-interest is whether he is the party who would be benefited or injured by the judgment, or the party entitled to the avails of the suit. On the other hand, there is difficulty of determining *locus standi* in public suits. It is important to note that standing because of its constitutional and public policy underpinnings, is very different from questions relating to whether a particular plaintiff is the real party-in-interest or has capacity to sue. Standing is a special concern in constitutional law because cases are brought not by parties who have been personally injured by the operation of a law. The plaintiff who asserts a “*public right*” in assailing an allegedly illegal official action, does so as a representative of the general public. Hence, he has to make out a sufficient interest in the vindication of the public order and the securing of relief.<sup>20</sup> The question in standing is whether such parties have “*alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions.*”<sup>21</sup>

This Court has previously ruled that for suits filed by taxpayers, legislators, or concerned citizens, they must still claim some kind of injury-in-fact and allege that the continuing act has denied them some right or privilege to which they are entitled.<sup>22</sup> These parties have no legal standing unless they sustained or are in imminent danger of sustaining an injury as a result of the complained act.<sup>23</sup> Here, Atty. Real fails to establish that he has the requisite personal and substantial interest. He did not sustain any direct

<sup>16</sup> The Court has no self-starting capacity and must await the action of some litigant so aggrieved as to have a justiciable case. (Shapiro and Tresolini, *American Constitutional Law*, Sixth Edition, 1983, p. 79).

<sup>17</sup> Cruz, *Philippine Political Law*, 2002 Ed., p. 259. See also *Angara v. Electoral Commission*, 63 Phil 139 (1936); *Board of Optometry v. Colet*, 260 SCRA 88 (1996); *Macasiano v. National Housing Authority*, 224 SCRA 236 (1993); *Santos III v. Northwestern Airlines*, 210 SCRA 256; and *National Economic Protectionism Association v. Ongpin*, 171 SCRA 657 (1989).

<sup>18</sup> Hon. Aguinaldo, et al. v. Pres. Benigno Simeon C. Aquino III et al., 801 Phil. 493, 549 (2016).

<sup>19</sup> It provides that “every action must be prosecuted or defended in the name of the real party in interest.” Accordingly, the “real-party-in interest” is “the party who stands to be benefited or injured by the judgment in the suit or the party entitled to the avails of the suit.” Succinctly put, the plaintiff’s standing is based on his own right to the relief sought. (*Salonga v. Warner Barnes & Co.*, 88 Phil. 125, 131).

<sup>20</sup> *Prof. David v. Pres. Macapagal-Arroyo*, 522 Phil. 705, 756 (2006).

<sup>21</sup> *JG Summit Holdings, Inc. v. Court of Appeals*, 398 Phil. 955, 970 (2000).

<sup>22</sup> *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019, citing *Francisco, Jr. v. House of Representatives*, 460 Phil. 830 (2003).


<sup>23</sup> *Private Hospitals Association of the Philippines, Inc. v. Medialdea*, G.R. No. 234448, November 6, 2018.

injury or is in danger of suffering any damages from the assailed actions of the House of Representatives, the NTC and the OSG. Notably, it is ABS-CBN that has a more direct and specific interest in the questions raised in the petition. Moreover, ABS-CBN had filed its own suit against the respondents and is pending with this Court.<sup>24</sup>

We reiterate that the filing of cases before this Court is a serious affair and should never be considered, except when all the requisites of judicial review are present. The Court should prevent any person who does not have the proper legal standing from seeking judicial interference in any official policy or act with which he disagreed with, and thus hinders the activities of governmental agencies engaged in public service.<sup>25</sup>

**FOR THESE REASONS**, the petition is **DISMISSED**. The prayer for injunctive relief is **DENIED**.” (65 & 73)

By authority of the Court:

  
**EDGAR O. ARICHETA**  
Clerk of Court

<sup>24</sup> *ABS-CBN Corporation v. National Telecommunications Commission*, G.R. No. 252119.

<sup>25</sup> See *Unsigned Resolution in Gadon v. Hon. Cayetano, et al.*, G.R. No. 251932, June 2, 2020.

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