



Republic of the Philippines
Supreme Court
Manila

EN BANC

PATRICIA MARIE I. RANADA,
MARA ALYSSABEL D.
CEPEDA, RAYMON G.
DULLANA, FRANKLIN Y.
CIMATU, MAURICIO E.
VICTA, CAMILLE KRISTINA
S. ELEMIA, RALPH MARTIN S.
RIVAS, BALTAZAR ESPINOSA
LAGSA and RAPPLER, INC.,
Petitioners,

DR. FLORANGEL BRAID,
MELINDA QUINTOS DE
JESUS, CERES DOYO, JOHN
NERY, SOLITA MONSOD, MA.
SALVACION "INDAY"
VARONA, MARLON RAMOS,
VERGEL SANTOS, LOURD
ERNEST DE VEYRA,
JOSELITO DELOS REYES,
MURIEL "TWINK"
MACARAIG, NIKOLETTE
KRISTINE NONNA "NIKKO"
DIZON, AND OTHER
JOURNALISTS AND MEDIA
PRACTITIONERS LISTED IN
ANNEX A,
Petitioners-in-Intervention,

G.R. No. 246126

Present:
GESMUNDO, C.J.,*
LEONEN,**
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

Promulgated:

June 27, 2023

* On official leave.

** Leonen, S.A.J., designated as Acting Chief Justice per Special Order No. 2990, dated June 24, 2023.

BARTHOLOME T.
GUINGONA, ANA THERESA P.
SANTOS, MICHELLE D.L.
ABAD, JOSE FRANCISCO M.
LUNA, MIKAELA ANDREA R.
GARCIA, MERINETTE A.
RETONA, JENNINA MARIE M.
MORA, RANEZA E. PINLAC,
ANDREW DANIEL H.
MENCILAS, GILLIAN N.
VILLANUEVA, PHOEBE C.
SALVADOR, SHERWIN G. DE
VERA, ANGELO A.M. SILVA,
ARMIN REY P. ADINA, ODINA
E. BATNAG, MA. ANNA
MARGARITA V. BUENO,
ANGEL S. AVERIA, JR.,
MARIA LOURDES M.
JIMENEZ, EDNA O. AQUINO,
ANTONIO TIAMSON, NOEMI
L. DADO, MARIA LORETO P.
ROCES, AND MARLON
ANTHONY TONSON,

Petitioners-in-Intervention,

PAGBABAGO@PILIPINAS
FOUNDATION, INC.,

Petitioner-in-Intervention,

- versus -

OFFICE OF THE PRESIDENT,
OFFICE OF THE EXECUTIVE
SECRETARY, PRESIDENTIAL
COMMUNICATIONS
OPERATIONS OFFICE,
MEDIA ACCREDITATION
REGISTRATION OFFICE, and
PRESIDENTIAL SECURITY
GROUP,

Respondents.

x-----x



DECISION

SINGH, J.:

The Court is asked to determine whether the freedom of the press, as enshrined in Article III, Section 4 of the Constitution, has been violated. However, supervening events have foreclosed the need for the Court to rule on the substantive issues raised.

A Petition for *Certiorari* and Prohibition [With (1) Prayer for the Issuance of a Temporary Restraining Order and/or *Status Quo Ante Order* and/or Writ of Preliminary Injunction and (2) Motion for Special Raffle]¹ dated April 10, 2019 (the **Petition**), was filed by petitioners Patricia Marie I. Ranada (**Ranada**), Mara Alyssabel D. Cepeda, Raymon G. Dullana, Franklin Y. Cimatú,² Mauricio E. Victa, Camille Kristina S. Elemia, Ralph Martin S. Rivas, Baltazar Espinosa Lagsa (collectively, the **Rappler Journalists**), and Rappler Inc. (**Rappler**) (collectively, the **petitioners**). The petitioners prayed that the Court issue the necessary writs to prohibit the respondents Office of the President, Office of the Executive Secretary, Presidential Communications Operations Office (**PCOO**), Media Accreditation Registration Office (**MARO**), and Presidential Security Group (collectively, the **respondents**), from implementing a ban that would prevent Rappler and its journalists from covering any and all newsworthy events involving the presence and/or participation of the then Chief Executive, President Rodrigo Roa Duterte (**President Duterte**), and to declare the ban void.³

After the filing of the Rappler Petition, three Petitions-in-Intervention were subsequently filed with the Court. The first Petition-in-Intervention,⁴ dated April 23, 2019, was filed by Dr. Florangel Braid, et al. (**Braid, et al.**) who are journalists and media practitioners.⁵ The second Petition-in-Intervention,⁶ dated April 22, 2019, was filed by Bartholome T. Guingona, et al. (**Guingona, et al.**), who are composed of student journalists as well as members of the academe.⁷ The third Petition-in-Intervention,⁸ dated May 24, 2019, was filed by Pagbabago@Pilipinas Foundation, Inc. (**Pagbabago**), which is a foundation and the organizer of MediaNation, a network of media practitioners (collectively, the **petitioners-in-intervention**).⁹

¹ *Rollo*, Vol. 1, pp. 3-94.

² Spelled as "Frank Cimatú" in his Verification and Certification of Non-Forum Shopping; *Id.* at 83.

³ *Rollo*, Vol. 1, p. 4.

⁴ *Id.* at 218-227.

⁵ *Id.* at 219.

⁶ *Id.* at 249-288.

⁷ *Id.* at 251-253.

⁸ *Rollo*, Vol. 2, pp. 581-591.

⁹ *Id.* at 582-583.



The Court issued a Resolution¹⁰ dated July 30, 2019, requiring the respondents to comment on the Petition and the Petitions-in-Intervention. The respondents, through the Office of the Solicitor General, accordingly filed their Consolidated Comment [re: Petition dated April 10, 2019, Petitions-in-Intervention dated April 22, 2019, April 29, 2019 and May 24, 2019], dated September 24, 2019.¹¹

The Court then issued a Resolution¹² dated November 19, 2019, requiring the petitioners and the petitioners-in-intervention to file their respective replies to the Consolidated Comment. Accordingly, the petitioners filed their Reply¹³ dated January 20, 2020; Guingona, et al. filed their Omnibus Reply¹⁴ dated January 20, 2020, although the Reply of Pagbabago,¹⁵ dated November 4, 2019, predates the Court's Resolution.

Thereafter, the Court issued a Resolution¹⁶ dated April 5, 2022, dispensing with the reply of Braid, et al., as they had failed to file their Reply within the prescribed period.

The Antecedents

On January 11, 2018, the Securities and Exchange Commission (SEC) released a Decision¹⁷ revoking Rappler's Certificate of Incorporation (COI), for "violating the constitutional and statutory Foreign Equity Restrictions in Mass Media[.]"¹⁸

Subsequent to the revocation of Rappler's COI, Rappler and its journalists were prohibited, or banned, from attending presidential events—essentially, events where President Duterte was in attendance.

The petitioners contend that the extent of the ban prevents them "from covering any and all newsworthy events involving the presence and/or participation of the Chief Executive in any venue and in any capacity, from business forums to electoral exercises such as campaign rallies."¹⁹

¹⁰ *Id.* at 604-606.

¹¹ *Id.* at 618-665.

¹² *Id.* at 902-A to 902-B.

¹³ *Rollo*, Vol. 3, p. 1079-1142.

¹⁴ *Id.* at 1039-1074.

¹⁵ *Rollo*, Vol. 2, pp. 903-910.

¹⁶ *Rollo*, Vol. 3, pp. 1157-1158.

¹⁷ *Rollo*, Vol. 2, pp. 698-726.

¹⁸ *Id.* at 726.

¹⁹ *Rollo*, Vol. 1, pp. 4.

The respondents meanwhile submit that due to the revocation of Rappler's COI, "petitioner Rappler and all its affiliated journalists have no special access to cover the Malacañang complex and all other events attended by the President himself."²⁰

The characterization of this situation as a "ban" or simply a lack of "special access" differs between the petitioners and the respondents. Further, the petitioners and the respondents differ in their perceived basis for the ban, as well as the scope thereof.

Viewpoint of the petitioners

The petitioners submit that "[o]n 20 February 2018, Respondents commenced imposing a ban against Petitioner Rappler and its affiliated journalists from covering newsworthy events involving the presence or participation of the President and his political party, Partido Demokratiko Pilipino Lakas ng Bayan Party ("PDP-Laban"), including those held in public places that are accessible to members of the public."²¹

As to the reason for this ban, the petitioners allege that "[t]he Ban is based on three (3) verbal declarations by the Chief Executive directed against Petitioner Rappler."²²

As stated in the petitioners' Reply:²³

In a Media Interview with President Rodrigo Roa Duterte during the Inauguration of the New Communications Development Project held on 16 January 2018, the Chief Executive declared Rappler as a "fake news outlet":

*"Kaya ko kayong bastusin 'yang p***** i** xxx 'yang Rappler, pati kung mayroon ako.*

I do not have to cover anything because you can dig the entire cemetery of lies and you will not find anything.

xxx

"Since you are a fake news outlet, then I am not surprised that your articles are also fake."

²⁰ Rollo, Vol. 2, pp. 623.

²¹ Rollo, Vol. 1, pp. 8.

²² Rollo, Vol. 3, pp. 1085.

²³ *Id.* at 1079-1142.



In an interview dated 22 February 2018, the Chief Executive invoked “**executive action**” to impose the Ban against Petitioners from entering Malacañang or covering any presidential event:

“Q: Sir, last na lang. ‘Yung sa Rappler lang po, sir. Ano lang po ‘yung assurance na the decision of Malacañang not to allow Rappler to cover any presidential event will be a precedent to other media or —

PRESIDENT DUTERTE: No, because it is not a legitimate agency according to SEC.

So I am now invoking executive action based on the SEC ruling, na kung sabihin na sila, legitimate sila, pasok kayo uli. Walang problema sa akin ‘yan.’

This was reiterated on 01 March 2018 during the Opening Ceremony of the National SWAT Challenge in which the Chief Executive declared a broader order against Petitioners:

*“Huwag kayong sumagot. You’re investigating us, fact-finding, well sorry. Do not f*** with me. Mahirap kasi ‘pag palabas ‘yan, kita mo ‘yung mga newspaper, mga Rappler. Iba tong speech ko ngayon. Bukas, iba ang presentation niyan.*

Kaya bawal ngayon sila. That is my order. Do not talk to people who will produce lies out of your statements. And who can twist it forever to the angle that they would like it to.²⁴ (Emphasis in the original; numbering omitted)

The petitioners, therefore, submit that the ban is based merely on President Duterte’s personal distaste for or animus towards Rappler and its journalists, as the ban “arises from a manifest and hostile *animus* against Petitioners.”²⁵

Viewpoint of the respondents

On the other hand, the respondents counter that the “ban” is, in actuality, nothing more than a failure of the petitioners to abide by the rules and procedures governing accreditation for journalists to be able to enjoy access to presidential events.²⁶

²⁴ *Id.* at 1085-1086; see *rollo*, Vol. 1, pp. 159-174, Annex K of the Petition.

²⁵ *Rollo*, Vol. 1, p. 66.

²⁶ *Rollo*, Vol. 2, pp. 621-623.



The respondents explain that for “special access” to cover the President of the Republic of the Philippines, media entities must apply for accreditation with the International Press Center (IPC), which is an office under the PCOO.²⁷

The respondents aver that one of the functions of the IPC is to establish and maintain a system of accreditation for local and foreign members of the media. The IPC requires the submission of an IPC Press Accreditation Form for the application and renewal of Malacañang Press Corps (MPC) members, members of the Foreign Correspondents Association of the Philippines (FOCAP), as well as visiting foreign journalists. After approval, accredited media organizations and reporters are issued ID Cards, which are valid only for one year from January 1 until December 31 of the same year of issuance.²⁸

Further, in order for local media entities to have “special access” to cover the President, they must apply for membership with the MPC, which is an organization of television, radio, print, or online reporters assigned by their respective media organizations to cover Malacañang, as only Filipino media practitioners who are MPC members are allowed to enter the premises of Malacañang.²⁹

The respondents cite Section 2, Article 4 of the MPC’s by-laws as enumerating the requirements to qualify as a member of the MPC, and they list the requirements as follows:

- a) **duly RECOGNIZED AND ENDORSED by the Presidential Communications Operations (PCOO) as *bona fide* media organization;**
- b) subject to the approval of the MPC officials;
- c) has been in operation for at least one year;
- d) **duly ACCREDITED by the International Press Center;** and
- e) **duly REGISTERED at the Securities and Exchange Commission (SEC).**³⁰ (Emphasis in the original)

The foregoing is consistent with the copy of the MPC by-Laws,³¹ which the petitioners annexed to their Petition.

The MARO, an office also under the PCOO, accredits local and foreign media in covering Malacañang Palace and any other Presidential events

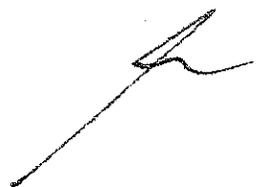
²⁷ *Id.* at 621.

²⁸ *Id.* at 621-622.

²⁹ *Id.* at 622.

³⁰ *Id.*

³¹ *Rollo*, Vol. 1, pp. 100-106.



outside it, and is also the office which endorses media organizations to the MPC. As related by the respondents, for accreditation, the MARO requires, first, a Press ID issued by the IPC, and second, membership with the MPC.³²

On December 31, 2017, all IPC and MARO accreditations expired in line with the one calendar year validity period stated above, including Rappler's, and would need to be renewed. Accordingly, Ranada, Rappler's Malacañang beat reporter, filed an application for renewal of her IPC Press ID in 2018 as a member of the MPC. However, as mentioned previously, the SEC issued a Decision revoking Rappler's COI on January 11, 2018.³³ Thus, considering that Rappler's SEC registration had been revoked, this led to the petitioners' failure to comply with the requirements for renewal of accreditation, for which reason, Ranada's application was denied by the IPC. As a result, Ranada was denied special access to the Malacañang Palace, and Ranada's IPC Press ID was not renewed.³⁴

Since then, Rappler and all its affiliated journalists have had no "special access" to cover the Malacañang Complex and all other events attended by President Duterte himself.³⁵

From the foregoing, it is clear that the respondents anchor the propriety and validity of the events affecting Rappler and its journalists on the SEC's revocation of Rappler's COI. They portray Rappler's continuing corporate existence as a key requisite in the overlapping requirements that are necessary for a media entity to be afforded access to presidential events.

The Arguments

Proceeding from their disparate views on the nature and basis of the prohibition, the petitioners and the respondents necessarily diverge in their submissions as to the legal and constitutional ramifications of this occurrence.

Petitioners

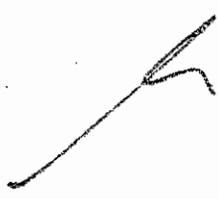
The petitioners contend that the ban abridges the freedom of the press, as barring access to members of the press, or otherwise restricting or censoring

³² *Rollo*, Vol. 2, pp. 622-623.

³³ *Id.* at 623.

³⁴ *Id.*

³⁵ *Id.*



the ability of the press to cover activities or events of the President, contravenes their constitutional rights.³⁶

The petitioners go on to assert that a free press must not be dependent on "any form of government license as a prerequisite to the exercise of press freedoms," and that "[m]embers of the press, by the mere fact of exercising such profession and with the recognition of their peers as responsible journalists, do not require any prior approval or accreditation from a government agency to perform their functions or editorial freedoms."³⁷ The petitioners submit that "[t]o hold as Respondents' claim that Petitioners' constitutional protection attaches only after their accreditation or on the clearance of other government agencies, i.e. the SEC or BIR, would justify unwarranted governmental intrusion into their press freedoms. If the proscription against government interference with the press can be simply avoided through the use of 'regulatory' creativity, then the protection becomes illusory."³⁸

The petitioners further assert that the media is self-governing and self-regulating, and therefore any interference or attempt by the government to regulate them, such as through the accreditation system detailed by the respondents, is invalid.³⁹ They cite as legal basis for this assertion, Republic Act (RA) No. 4363,⁴⁰ titled "An Act to Further Amend Article Three Hundred Sixty of the Revised Penal Code," as well as Presidential Decree (PD) No. 576,⁴¹ titled "Abolishing the Media Advisory Council and the Bureau of Standards for Mass Media and Authorizing the Organization of Regulatory Councils for Print Media and Broadcast Media."

The petitioners assert that "[a] self-regulating press therefore means a press that possesses the sole and exclusive power to define the standards for quality journalism, to ensure compliance therewith and to accept, suspend or revoke its members independent of any Government intervention. Thus, the prerogative to determine: (1) who are legitimate journalists; and (2) who has access to public venues to cover public newsworthy events is a prerogative of the self-regulating press which cannot be co-opted by the Government."⁴²

Next, the petitioners submit that the ban is a form of subsequent punishment. They write that "[p]lainly put, the ban was a retaliation for the

³⁶ *Rollo*, Vol. 1, pp. 36.

³⁷ *Id.* at 37.

³⁸ *Id.* at 38.

³⁹ *Id.* at 45-48.

⁴⁰ Approved on June 19, 1965.

⁴¹ Approved on November 9, 1974.

⁴² *Rollo*, Vol. 1, pp. 45-46.



content of their reporting,” and that the ban constitutes “punitive action against them.”⁴³

The petitioners also submit that the ban does not pass the test of strict scrutiny, as no compelling state interest has been shown, and the ban has not been shown to be narrowly drawn and the least restrictive means, given its broad and encompassing nature.⁴⁴

The petitioners lastly contend that they were denied procedural due process, as they did not receive any formal written notice of the imposition of the ban and an opportunity to be heard,⁴⁵ and also that they were denied equal protection, as they were arbitrarily, if not malevolently, singled out, and a disparate treatment was effected.⁴⁶

All told, the petitioners contend that any accreditation requirements forwarded by the respondents are merely a pretextual cover, and that the ban is actually premised on the verbal directives of President Duterte, whose statements evince his personal dislike of the petitioners and therefore cannot serve as valid basis for denying them access to presidential events.

Respondents

The respondents, meanwhile, assert that no constitutional issues are raised by the events that occurred, and no constitutional rights have been violated or even implicated by the prohibition. They state that “[t]he denial of an entity, whose legal existence is in serious doubt, to ‘personally’ cover presidential events does not equate to a serious constitutional issue as petitioners want this Honorable Court to believe.”⁴⁷

The respondents maintain that the petitioners’ failure to comply with the requirements for their accreditation is at the heart of the controversy.⁴⁸ The respondents underscore that a local media entity or journalist must be accredited by the MARO in order to cover presidential events, and that under the rules of the MARO, accreditation requires that a media entity or journalist be both a holder of an IPC Press ID as well as an MPC member in good standing.⁴⁹ The respondents also reiterate that the MPC by-Laws require,

⁴³ *Id.* at 50.

⁴⁴ *Id.* at 60-63.

⁴⁵ *Id.* at 63-64.

⁴⁶ *Id.* at 64-67.

⁴⁷ *Rollo*, Vol. 2, p. 630.

⁴⁸ *Id.* at 636-641.

⁴⁹ *Id.* at 636.



among other things, that a media organization must be duly registered with the SEC in order to be accredited as an MPC member.⁵⁰ The respondents thus submit that a journalist or media entity must be accredited by the IPC, the MARO, and be a member of the MPC, in order to be able to cover presidential events.⁵¹

The respondents state that the IPC Press ID card is valid only for the year in which it was issued, and must thus be renewed annually in order for its holder to continue enjoying the privilege of covering presidential events both within and outside Malacañang grounds.⁵² Here, Ranada's IPC Press ID expired on December 31, 2017, and no IPC Press ID was issued in her favor for the year 2018 due to the revocation of Rappler's SEC registration.⁵³

Respondent PCOO, through the IPC and MARO, are merely implementing their accreditation rules in determining which media entity or journalist is allowed to enter and cover presidential events and press briefings.⁵⁴ Therefore, the respondents submit that the mere act of enforcing its accreditation rules does not, in any way, affect or trample upon the petitioners' constitutional freedom of the press.⁵⁵

The respondents assert that access to presidential events is akin to a privilege, and not a right that is afforded under the freedom of the press, saying that "the constitutional freedom of the press does not certainly include the right to demand a special press pass, special accreditation, or special spot at any news conference or press briefing."⁵⁶

The respondents also allege that the accreditation requirements cannot be considered as imposing a prior government license such as may be considered a form of prior restraint. They argue that the IPC Press ID is required by all journalists to cover Malacañang and was not imposed specifically on Rappler. Further, the petitioners were able to continuously report and publish articles despite their lack of accreditation, as it was only their physical access to presidential events that was affected.⁵⁷

The respondents state that they have not interfered with or hampered the petitioners in their gathering of material and their reporting, and in fact

⁵⁰ *Id.* at 637.

⁵¹ *Id.*

⁵² *Id.* at 637.

⁵³ *Id.* at 638.

⁵⁴ *Id.*

⁵⁵ *Id.* at 640.

⁵⁶ *Id.* at 641.

⁵⁷ *Id.* at 642-643.



they assisted the petitioners in securing live audio and video broadcasts, and so “[i]t is thus misleading for the petitioners to state that their absence in the same room where the event is being held constitutes prior restraint.”⁵⁸

The respondents go on to state that “[a] survey of free speech cases in our jurisdiction reveals the same disposition: there is prior restraint when the government act forbids speech, prohibits the expression of a message, or imposes onerous requirements or restrictions for the publication or dissemination of ideas.”⁵⁹ They continue: “[c]learly, the lack of physical access of petitioners during presidential events does not, in any way, restrict the publishing of news articles, much less could it be characterized as prior restraint since there is no restriction on dissemination of information before publication nor any imposition of requirements.”⁶⁰

The respondents also state that the prohibition cannot be considered as subsequent punishment, as the petitioners have not been sanctioned, and it is instead the constitutional issue regarding Rappler’s ownership that has stripped it and its journalists of the privilege to cover President Duterte in Malacañang.⁶¹

The respondents then assert that the right to self-regulation of the press, as found in RA No. 4363 and PD No. 576, is limited to ethical issues, including investigation and imposition of penalties therefor. Respondents state that, on the contrary, the issue here revolves around the legal existence of Rappler in accordance with law and jurisprudence, which is beyond the scope of self-regulation.⁶²

The respondents also raise the fact that Rappler had argued in the SEC case that it was not a “mass media entity” within the contemplation of the Constitution, as the Constitutional Commission did not intend this to cover online media platforms. Thus, the respondents state that the enforcement of the IPC and MARO accreditation rules was only to ensure that only legitimate mass media entities and journalists be granted special access to presidential events.⁶³

The respondents also contend that strict scrutiny should not apply as there is no infringement of fundamental rights such as speech or the press, as

⁵⁸ *Id.* at 643.

⁵⁹ *Id.* at 645.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.* at 648-649.

⁶³ *Id.* at 650.

the petitioners' claim that the ban is a form of retaliation and a personal prejudgment of credibility by President Duterte is unfounded, and that their lack of access is simply the result of their lack of accreditation, which finds its basis in the January 11, 2018 SEC Decision.⁶⁴

Lastly, as regards the due process and equal protection arguments of the petitioners, the respondents state that a discussion on notice and hearing is not relevant as what is in issue is simply the lack of accreditation, and further that this lack of accreditation justifies the difference in treatment as they are not similarly situated with other journalists who possess such accreditation.⁶⁵

Having summarized the main arguments of both sides, the Court proceeds to its ruling.

The Ruling of the Court

The Court finds that there is one primary issue that needs to be addressed: that of mootness. However, implicated in the Court's discussion on mootness is one other procedural consideration, which is, that the resolution of factual issues is not a proper function of the Court in the exercise of its original jurisdiction. The Court's ruling on these procedural issues precludes the need for the Court to rule directly on the substantive issues.

Mootness

President Duterte is no longer the current President of our Republic. His term ended at noon on June 30, 2022 in accordance with Article VII, Section 4 of the Constitution, when he was succeeded in office by President Ferdinand Marcos, Jr. (President Marcos).

Given that the primary assertion of the petitioners is that the ban was the result of the various offices in the executive department acting to implement the verbal directives of President Duterte, and that the accreditation issue was merely a pretext for President Duterte's personal dislike of the petitioners, it is clear that the expiration of his term as President has mooted this Petition.

⁶⁴ *Id.* at 654-655.

⁶⁵ *Id.* at 655-659.



The Court, in *Pangilinan v. Cayetano*,⁶⁶ thoroughly discussed the necessity of an actual case or controversy as a prerequisite to the exercise of its power of judicial review, and that, in its absence, a case is to be considered moot and no longer a proper subject of review:

The Petitions are moot. They fail to present a persisting case or controversy that impels this Court's review.

In resolving constitutional issues, there must be an "existing case or controversy that is appropriate or ripe for determination, not conjectural or anticipatory."

An actual case deals with conflicting rights that are legally demandable and enforceable. It involves definite facts and incidents to be appreciated, and laws to be applied, interpreted and enforced vis-à-vis ascertained facts. It must be "definite and concrete, touching the legal relations of parties having adverse legal interest; a real and substantial controversy admitting of specific relief."

A constitutional question may not be presented to this Court at an inopportune time. When it is premature, this Court's ruling shall be relegated as an advisory opinion for a potential, future occurrence. When belated, concerning matters that are moot, the decision will no longer affect the parties.

Either way, courts must avoid resolving hypothetical problems or academic questions. This exercise of judicial restraint ensures that the judiciary will not encroach on the powers of other branches of government. As *Angara v. Electoral Commission* explained:

[T]his power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented. Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government.

The requirement of a *bona fide* controversy precludes advisory opinions and judicial legislation. For this Court, "only constitutional issues that are narrowly framed, sufficient to resolve an actual case, may be entertained," and only when they are raised at the opportune time.

⁶⁶ G.R. Nos. 238875, 239483 & 240954, March 16, 2021 [Per J. Leonen, *En Banc*].



A case is moot when it “ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value.” There may have been conflicting rights, disputed facts, or meritorious claims warranting this Court’s intervention, but a supervening event rendered the issue stale. In *Peñafrancia Sugar Mill, Inc. v. Sugar Regulatory Administration*:

A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness. This is because the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.⁶⁷ (Citations omitted)

In this case, there would indeed no longer be any practical value in a judgment from the Court. Not only is President Duterte, whose acts were assailed as violative of constitutional rights, already out of office, but further, and importantly, it does not appear that Rappler remains without access to presidential events under President Marcos, based on the list of MPC members as of February 20, 2023,⁶⁸ as well as an opinion piece published by Rappler.⁶⁹

It is conceded that the doctrine of mootness is not without well-recognized exceptions. As held in *Timbol v. Commission on Elections*:⁷⁰

This court has taken cognizance of moot and academic cases when:

(1) there was a grave violation of the Constitution; (2) the case involved a situation of exceptional character and was of paramount public

⁶⁷ *Id.*

⁶⁸ List of the latest Malacañang Press Corps members as requested on August 18, 2022, and replied to on February 22, 2023, through the Freedom of Information Program website, available at: <<https://www.foi.gov.ph/requests/ag1zfmVmb2kteGhyHgsSB0NvbnRlbnQiEVBDT08tNjg5NTQ4MzAzNTY4DA>> (last accessed on March 21, 2023). The list includes Bea Cupin of Rappler as an MPC Regular Member.

⁶⁹ “[OPINION] Bongbong and the media: So-so” by Chay F. Hofileña, dated October 11, 2022, Rappler website, available at: <<https://www.rappler.com/voices/thought-leaders/first-100-days-marcos-jr-philippine-media-so-so-relations/>> (last accessed on March 21, 2023). The pertinent passage reads “[t]he heavy-handed style of Duterte does not, however, seem to be the preference of Marcos. He’s had regular-hour press conferences, let his former spokesperson (really an outsider) communicate with the media, and has made no move to shame or exclude critical media from Palace coverages.” (Emphasis supplied)

⁷⁰ 754 Phil. 578 (2015) [Per J. Leonen, *En Banc*].

interest; (3) the issues raised required the formulation of controlling principles to guide the Bench, the Bar and the public; and (4) the case was capable of repetition yet evading review.⁷¹

Despite this case seemingly presenting some of the aforementioned exceptions, the Court declines to rule on the substantive issues not only as an exercise of judicial restraint, but also because there are a number of factual questions which would prevent the Court from rendering an instructive ruling.

Questions of Fact

As explained by the Court in the case of *GIOS-Samar, Inc. v. Department of Transportation and Communications*:⁷²

In fine, while this Court has original and concurrent jurisdiction with the RTC and the CA in the issuance of writs of *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus* (extraordinary writs), direct recourse to this Court is proper only to seek resolution of questions of law. Save for the single specific instance provided by the Constitution under Section 18, Article VII, cases the resolution of which depends on the determination of questions of fact cannot be brought directly before the Court because we are not a trier of facts. We are not equipped, either by structure or rule, to receive and evaluate evidence in the first instance; these are the primary functions of the lower courts or regulatory agencies. This is the *raison d'être* behind the doctrine of hierarchy of courts. It operates as a constitutional filtering mechanism designed to enable this Court to focus on the more fundamental tasks assigned to it by the Constitution. It is a bright-line rule which cannot be brushed aside by an invocation of the transcendental importance or constitutional dimension of the issue or cause raised.⁷³ (Citations omitted)

Here, the Court finds that there are certain issues that would require a factual determination, and as such, prevent a characterization of the issues raised as purely questions of law.

One issue that reflects the opposing factual assertions of the petitioners and the respondents has to do with whether Rappler remained a member of the MPC despite the revocation of its COI by the SEC, as the petitioners insist that MPC never revoked Rappler's accreditation or Ranada's membership,⁷⁴ while the respondents attached annexes containing the lists of MPC members

⁷¹ *Id.* at 578 & 585.

⁷² 849 Phil. 120 (2019) [Per J. Jardeleza, *En Banc*].

⁷³ *Id.* at 149-150.

⁷⁴ *Rollo*, Vol. 1, pp. 8 & 11.

to show that Rappler and its journalists no longer appear in the same.⁷⁵ Settling this issue would, for one, aid the Court in determining whether the respondents' arguments for accreditation hold water.

Further, there is the issue of the actual extent and coverage of the ban. The petitioners allege that they were prevented from attending presidential events that were otherwise open to the public, and that they would have been able to attend the same in their own capacities as private citizens were it not for their affiliation with Rappler. They state that "the full scope of the ban" included "physically preventing entry by petitioner Rappler's reporters during presidential events held at public places open to members of the public."⁷⁶ Meanwhile, the respondents, however, appear to only admit that "special access"⁷⁷ was denied to the petitioners, in view of their position that "freedom of the press does not certainly include the right to demand a special press pass, special accreditation, or special spot at any news conference or press briefing."⁷⁸

The factual nature of the allegations of the petitioners was also directly noted by the respondents, who stated that "[t]he alleged physical ban and the basis thereof are factual matters requiring presentation of evidence. The incidents when petitioners were denied access must likewise be proven."⁷⁹

Further still, there is the sharp contrast in the petitioners' and respondents' views on the basis for the ban or prohibition. While respondents claim that accreditation issues sparked by the revocation of Rappler's COI are the crux of this case, the petitioners assert that this is merely a pretext for President Duterte to manifest his displeasure at their reporting. And yet, a review of the statements of President Duterte that the petitioners cite as the actual basis for the ban will reveal that these still, for the most part and despite the caustic language employed, hinge on the revocation of Rappler's COI.

If the full extent of the ban as alleged by the petitioners had been established, then this would have lent great weight to their assertions that the accreditation arguments of the respondents are indeed merely a ploy designed to cloak their harassment of the petitioners with the veneer of law. However, that is not the situation before the Court.

⁷⁵ *Rollo*, Vol. 2, pp. 638 & 792-799.

⁷⁶ *Rollo*, Vol. 1, p. 14.

⁷⁷ *Rollo*, Vol. 2, p. 623.

⁷⁸ *Id.* at 641.

⁷⁹ *Id.* at 631.



Given the various interlocking and overlapping issues that the Court will have to resolve in order to rule on the substantive issues here, a good number of which would require findings of fact to wholly and satisfactorily address, the Court considers that the interests of the public will not be adequately served, and neither will the role of the Court as an institution be exercised properly by an attempt to rule on the substantive issues, particularly in a moot case where no actual relief will be afforded to the petitioners.

Final Note

The Court finds in this case the presence of a combination of factors that forestall it from rendering a judgment on the merits, and in particular, a meaningful one.

That is not to say that the Court, by refraining from ruling on the substantive issues, moves away in any manner from the jurisprudence underscoring the importance of a free press. Truly, freedom of the press remains “one of the cherished hallmarks of our democracy.”⁸⁰

The Court also recognizes that the alarm of the petitioners, as well as the impetus for the efforts by the petitioners-in-intervention to join in this case, stem from the collective fear and outrage they express at the statements of President Duterte, which they perceive as attacks on journalists, the media, and on the press.

Indeed, it is plain to see why the petitioners and the petitioners-in-intervention find these statements so troubling, to say the least, as they come from no less than the President of the country, who is solemnly tasked with the duty to see that our nation’s laws are faithfully executed, and that the Constitution is at all times upheld.

At the same time, the Court must strive to confine its power of judicial review to an actual justiciable controversy. Thus, for this case, the Court is constrained to focus on what can be perceived directly and tangibly: the prior disallowance of Rappler and its journalists from attending newsworthy events involving the President, and which is an issue that has now been mooted.

In any case, the passage of time has shown the fears expressed by petitioners-in-intervention that such a ban would fall on others aside from

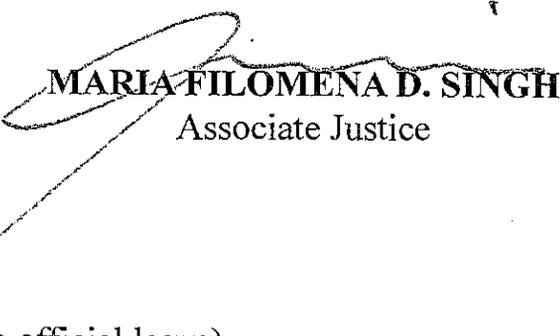
⁸⁰ *Tulfo v. People*, 587 Phil. 64, 70 (2008) [Per J. Velasco, Jr., Second Division].



Rappler to be groundless, as no such expansion had come to pass. This too emphasizes why this case should now be considered moot and academic.

WHEREFORE, the Petition for *Certiorari* and Prohibition as well as the Petitions-in-Intervention are **DISMISSED** on the ground of mootness.

SO ORDERED.


MARIA FILOMENA D. SINGH
Associate Justice

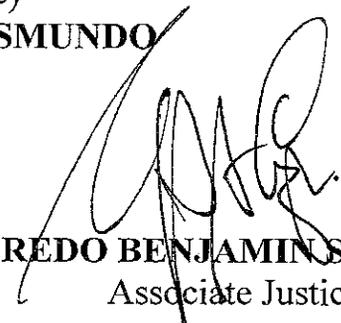
WE CONCUR:

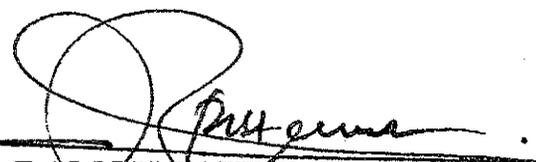
(on official leave)

ALEXANDER G. GISMUNDO
Chief Justice

I dissent. see separate opinion


MARVIC M.V.F. LEONEN
Senior Associate Justice

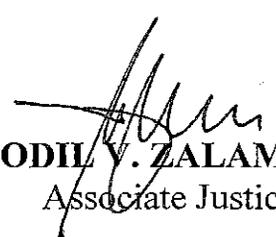

ALFREDO BENJAMINS S. CAGUIOA
Associate Justice

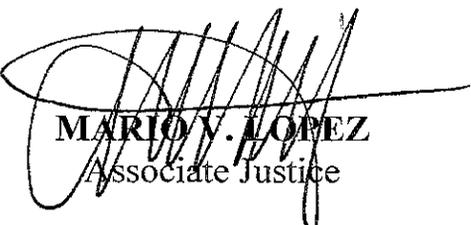

RAMON PAUL L. HERNANDO
Associate Justice

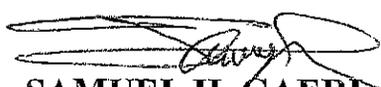
I join SAJ Leonen's Dissent

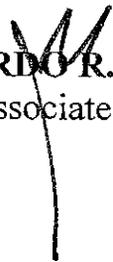
AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice



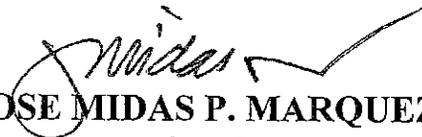
RICARDO R. ROSARIO
Associate Justice



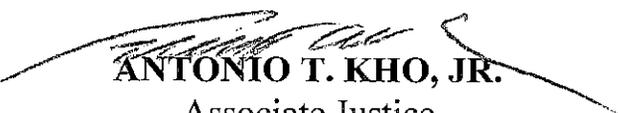
JHOSEP V. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARVIC M.V.F. LEONEN
Acting Chief Justice