

Philippines & Press Freedom : SEC issues revocation order vs Rappler in last 2 days of Duterte presidency

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'It is business as usual for us. We will adapt, adjust, survive and thrive,' Rappler tells staff

MANILA, Philippines – On the last two days of President Rodrigo Duterte, the Securities and Exchange Commission (SEC) issued an order affirming one more time its decision to revoke the certificates of incorporation of Rappler.

“The company registration and monitoring department is hereby directed to effect the revocation of the certificates of incorporation in the records and system of the Commission,” read part of the order dated June 28, and signed by SEC chairperson Emilio Aquino ; and Commissioners Javey Paul Francisco, Kelvin Lester Lee, Karlo Bello, and McJill Bryant Fernandez.

What does this mean ? “We have existing legal remedies all the way up to the highest court of the land. It is business as usual for us since, in our view, this is not immediately executory without court approval,” said Rappler in its statement on Wednesday, June 29.

In a statement on Wednesday, the SEC said : “In this light, the latest order issued by the Commission En Banc merely puts in effect its earlier decision and those of the Court of Appeals.”

This comes after the National Security Council (NSC) blocked news websites, including Bulatlat.com, using the feared anti-terror law.

Reasons

In July 2018, the Court of Appeals (CA) issued a decision siding with the findings of the SEC that Rappler’s issuance of Philippine Depositary Receipts (PDRs) to foreign investor Omidyar constituted some amount of foreign control that was prohibited by the Constitution. The Constitution requires that media companies should have zero foreign control.

But in the same decision, the CA said that when Omidyar donated its PDRs to Rappler’s Filipino managers, “the negative foreign control found objectionable by the SEC appears to have been permanently removed.” The CA remanded the case to the SEC to reevaluate, with a nudge to the Corporation Code’s clause allowing companies to have a grace period to cure their alleged defects.

The SEC stood by its findings in February 2021. Rappler filed a motion for reconsideration before the SEC. This latest order is an action to that motion.

SEC said in this latest order : “Considering that the object of the Donation (the Omidyar PDRs) was

void for being contrary to law, the Donation itself was void under Article 1409(1) of the Civil Code for being contrary to law and public policy.”

SEC said that when the CA remanded the case, the appellate court did not order to reinvestigate but only to reevaluate. Rappler asked the SEC to receive additional evidence.

“The Commission’s compliance with the said directive could not have violated the due process rights of Rappler and RHC because, by the very nature and essence of the directive, Rappler and RHC were not entitled to participate in the said legal evaluation,” said the SEC.

In February 2019, the CA affirmed its 2018 decision. By September 2019, the Supreme Court issued a resolution declaring the case closed and terminated. The CA registered its books of entry of judgment, declaring it had attained finality in March 2019.

“Public interest will be served if the revocation of the Certificate of Incorporation of Rappler and Rappler Holdings Corporation is sustained because it will implement the policy of respecting and fully complying with the provisions of the Constitution, to which every Filipino owes allegiance,” said the SEC in its order.

Rappler told its staff in an internal memo sent late night Tuesday : “Clarity, agility, sobriety. Review our drills and the tasks assigned to you.”

“Meantime, it is business as usual for us. We will adapt, adjust, survive and thrive.” - Rappler.com

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