

Seoul High Court
Civil Chamber 19

Summary of Decision

Case		2017NA2069268 Compensation for damages
Plaintiff-Appellee		World Mission Society Church of God Sunae-ro 50, Bundang-gu, Seongnam-si (Sunae-dong, Sunae-dong Upmoo Building) CEO, General Pastor KIM Joo Cheol Legal Counsel L.K.B & Partners LLC Attorneys SHIN Jae Yeon, LEE Gwang Beom
Defendant-Appellant		1. KANG Geun Byeong 1002-dong, 51-2 Jang-yoo-gil, Aewol-eup, Jeju-si (Jangjeon-ri, Sangwon-Rah-Terrace) 2. JO Seong Geun 101-403, Geomdan-ro 623beon-gil 41, Seo-gu, Incheon-si (Majeon-dong, Yesul Prime)
Trial Court		Suwon District Court Seongnam Branch, Nov-14-2017, 2016GAHAP207016, Decided
Proceeding Concluded		May-16-2018
Date of Ruling		Jun-01-2018

Formal Adjudication

1. The plaintiff's appeal is dismissed.
2. The cost of the appeal is assessed against the plaintiff.

Relief sought and grounds of appeal:

Relief Sought:

The defendants shall jointly pay the plaintiff the amount of 248,000,000 KRW, at the interest of 5% per annum from August 16, 2014, to the date of delivery of the case and at the interest of 15% per annum from the day after the following day to the date of completion of payment.

Grounds of appeal:

The trial court's decision should be dismissed.

The defendants shall jointly pay the amount indicated in the relief sought to the plaintiff.

Reasoning

1. Facts

The following facts are not contested between the parties and acknowledged that the purpose of the whole argument is summarized in each description of the No. 1 and No. 5 of the claims.

- A. The plaintiff, World Mission Society Church Of God (hereafter 'Plaintiff's Church') was founded by AHN Sang Hong in 1962, its teachings including 'AHN Sang Hong' as God and JANG Gil Jah as 'Spiritual Mother,' Saturday as Sabbath, and observation of religious holidays including the Passover. Upon AHN's death in 1985, KIM Joo Cheol assumed the position of General Pastor, and the Plaintiff's Church continues its missionary activities.
- B. The defendants joined the Plaintiff's Church around the year 1999, were renounced by the Plaintiff's Church in 2008, and are the members of an internet community named 'Korea Union of Victims of World Mission Society Church of God' (abbreviated as 'Hapimo,' <http://cafe.naver.com/tkdghd>).
- C. The defendants, in multiple instances, installed the signs printed on the appendix of this document in various places such as train station squares, roadsides and in front of the Plaintiff's Church, and held demonstrations by using loudspeakers to make following claims:

Major Claims

- A claim that indicated that the plaintiff extorted property by preaching that the Church members would be cursed unless they pay tithes
- A claim that indicated that the plaintiff's teaching that followers would be cursed unless they engaged in missionary activities tore apart families
- A claim that indicated that the plaintiff branded a husband who prevented his wife from attending the Plaintiff's Church a demon, resulting in a divorce
- A claim that indicated that the plaintiff taught the earthly families were fake, and only the heavenly families were true families, encouraging the destruction of families

2. Arguments of Parties

A. Plaintiff's Church's Argument

The defendants must jointly pay compensations to the plaintiff as they defamed the Plaintiff's Church by slandering to criticize the Plaintiff's Church.

As the defendants have committed total 124 instances of defamation from February 15, 2014, to August 16 2014, the defendants must pay the amount of 248,000,000 KRW (=2,000,000 KRW x 124 instances) to the plaintiff.

B. Defendants' argument

The demonstrations by the defendants did not violate any laws as they only stated facts to criticize issues regarding religious activities of the Plaintiff's Church.

3. Ruling

- A. Korea's Constitution Article 20-1 states 'all citizens enjoy the freedom of religion.' Freedom of religion includes freedom of proselytization to promote religions and recruit new followers. As freedom of proselytization also includes criticizing other religions or persuading the members of other religions to convert to another religion, religious propaganda and criticism of other religion are protected under freedom of the press. However, in this case, Article 20-1 of the Constitution acts as a special provision in regards to Article 21-1 which specifies freedom of the press, meaning that the media and publications for religious purposes are awarded a higher level of guarantee compared to other general media or publications. Particularly,

if the purpose of the aforementioned media and publications is by nature a debate regarding faith and teachings of another religion or religious community, communicating criticisms against another religion to the followers on the same sect, and furthermore, promoting the religion's teachings and criticisms of the opposing sect to the members of the opposing sect, such freedom should be guaranteed at a maximum level. In case the aforementioned freedom violates personal rights, such as defamation of character, a balance between protection of freedom of press and protection of individual's reputation must be achieved and decided, in consideration of the comparison of overall aspects of the criticism, including the benefits and values conveyed by such criticisms and the scope of the announcements and methods of expression to the degree of the damages done and could be done to individuals' reputation by the activity (Supreme Court, decided September 9, 2010, 2008DA84236).

Our Constitution aims to protect not the religion itself or the object of faith and veneration of the religion but our citizens following the said religion, namely those with faith. And as criticizing a certain religion tends to come with, by its nature, a certain degree of bias and provocative expressions, any insults to the object of veneration in a certain religion does not amount to defamation of character of the religious organization itself or its followers that worship the object. Satirical portrayal of the objects of faith of other religions or usage of expressions that can be perceived as humiliating or unpleasant over the process of exercising freedom of press for religious purposes are allowed unless such activities express outright hatred against the followers of the religion or incite any act of violence such as threats and physical assaults. (Supreme Court, decided September 4 2014, 2012DO13718)

B. The following is a summary of the proceedings indicated in GAP No. 6, 12, and EUL No. 1, 2, 5, 10, 12, 25, 26, 27, 28, 29, 36, 44, 45, 58:

- The chapter 13, titled "Tithe and Curse", of the Plaintiff's Church's book of catechism, <My Sheep Listen to My Voice>, contains a passage that says 'Anybody who fails to pay tithes shall be subject to amazing curses. Anybody who fails to pay tithes are guilty of robbing holy relics belonging to God. The sin of Achan, who dared to steal the items selected to be consecrated unto God, serves as a grave warning from the Lord to those who do not adhere to the practice of tithing, as tithe is considered as a holy relic today.'
- In a book of catechism of the Plaintiff's Church, <Love Thy Lord>, a passage titled 'Consequences Suffered by Those Who Fail to Preach the Gospel' says 'If people fail to achieve epiphany despite our diligent testimonies, [God] will hold the people responsible for their sins; if we

stay silent, [God said] we will be held accountable for all their sins.'

- The chapter 9 of <My Sheep Listen to My Voice>, titled 'How Satan Tests Us,' includes a passage that '[Satan] tests us by enlisting people around you, such as your parents, offspring, neighbors, relatives, acquaintances, wife, husband, and friend, to interfere with your faith.'
- The Plaintiff's Church's another book of catechism, <Come to the Holy Spirit and His Bride>, contains the chapter 5 titled 'Heavenly Family and Earthly Family', which argues that 'Any institutions on the earth is a mere model and shadow of the heavenly institution. This is particularly the case for family.' The Plaintiff's Church's book of catechism, <Guests from the World of Angels>, says that 'In this world, you can be a parent or an offspring by means of your bodies, but once you leave this earth, you are neither a parent or a son/daughter and can make judgement from a fair, universal perspective. Thus, while you may believe that happiness lies in your entire family receiving salvation while you are on this earth, you will clearly see who among your family was your enemy or benefactor only once you reach the heaven.'
- The Plaintiff's Church promoted doomsday theories in 1988, 1999, and 2012 and was subsequently labelled as a heretical sect by multiple Christian organizations. The press also investigated and reported on the Plaintiff's Church's doomsday teachings. Some of the Plaintiff's Church's followers had severe family conflicts due to excessive religious activities and donations, with some cases even leading to divorces. The members of Hapimo, including the defendants, seemed to have suffered similar problems regarding religious activities of the Plaintiff's Church.
- Major points argued at the demonstrations held by the defendants are based on the contents of the books of teachings published by the Plaintiff's Church or the facts the defendants were acquainted with through their own experiences, or the experiences of the people around them, or press coverage. Although the defendants have been sued for defamation in regard to a series of demonstrations similar to the activities outlined in Facts and only different in terms of dates and venues, before 2013 or 2014, the defendants were ruled not guilty, for the facts stated by the defendants could not be seen false or, even if the said facts were found to be false, it was deemed that the defendants were not aware of the said falsehood (Supreme Court, ruled 2015DO18970 & Supreme Court 2016DO21129).
- Even if it is possible to deem that over the course of demonstrations staged by the defendants, some of the messages slightly deviated from

facts or were little exaggerated, the majority of the contents matched objective facts. Given that criticism of religion is often accompanied by some degree of bias or provocative expressions, it cannot be deemed that those expressions do not belong to the scope of the expressions allowed for criticizing religions.

- According to each video of GAP No. 113 and GAP No. 156, it is acknowledged that the defendant KANG Geun Byeong pretended to excrete over the portrait photo of JANG Gil Jah or poked at the eyes of the photo of JANG with a stick or hung JANG's photo on a pole, driving a nail or painting an X in black onto the mouth of JANG's face in the photo. However, the above evidence proves that such actions took place twice on February 7, 2014, and May 24, 2014. As discussed above, given that criticism of religions tends to accompany a certain degree of bias and provocative expressions, even if KANG committed such actions against JANG Gil Jah, venerated as 'Spiritual Mother' in the Plaintiff's Church, it is difficult to rule that such actions reveal hatred against the members of the Plaintiff's Church or lead to physical assault or verbal threats by themselves.
- The content of the demonstrations by the defendants were meant to bring attention of the Plaintiff's Church's members or the public to the ideas from the perspective of the defendants who had joined the Plaintiff's Church and were dismissed the past: that some of the Plaintiff's Church's teachings were problematic. The defendants' actions were criticism against a religion, based on the perspective of faith of the defendants themselves. Particularly, given the size of the organization, volunteer and missionary activities, and messages of the teachings promoted by none other than the Plaintiff's Church, the facts regarding AHN Sang Hong, JANG Gil Jah and the Plaintiff's Church now belong to the public sphere; thus, as a call for a public debate on the Plaintiff's Church and any reasonable questions or suspicions about the Plaintiff's Church must be allowed, it is acknowledged that the defendants' demonstrations were based on an intent of promoting public interests.
- Based on the indications on GAP No.3 and No.4 as well as the partial testimony of the witness of this trial, JEONG Baek Hyang, it cannot be denied that the reason for the defendant KANG's continuous engagement in criticism of the Plaintiff's Church comes, in certain degree, from the pursuit of personal interests. However, as discussed above, given that the contents of the demonstrations by the defendants largely match the facts, it cannot be judged that the sole purpose of the demonstrations by the defendants was to pursue personal benefits.

C. In summary, although the defendants employed somewhat exaggerated or inappropriate expressions in criticism of the Plaintiff's Church, it can be judged that the defendants' actions are fundamentally expressions of religious criticism and cannot be seen as violations of the law.

4. Conclusion

As the reasoning of the appeal requested by the Plaintiff's Church fails to uphold, the case shall be dismissed. As the conclusion is identical to the ruling by the trial court, the appeal of the Plaintiff's Church is dismissed on the basis that there is no reason.

Judge GOH Ui Yeong

Judge AHN Dong Cheon

Judge KIM Soo Jeong