

Title:

****GMA Network, Inc. vs. Central CATV, Inc.: The Legality of Commercial Advertisements in Cable Television Systems****

Facts:

****Initial Complaint and Allegations:****

In February 2000, GMA Network, Inc., alongside other broadcasting entities, filed a complaint with the National Telecommunications Commission (NTC). They aimed to prevent Central CATV, Inc. from soliciting and showing advertisements on its cable television (CATV) network, referencing Section 2 of Executive Order (EO) No. 205, which bars CATV systems from infringing on television and broadcast markets.

****Respondent's Defense:****

Central CATV admitted to airing commercial advertisements but invoked Section 3 of EO No. 436 issued by President Fidel V. Ramos in 1997, which allows CATV operators to show advertisements provided they secure consent from their program providers.

****Demurrer to Evidence:****

After the petitioners submitted their evidence, Central CATV moved to dismiss the complaint through a demurrer to evidence, arguing that the petitioners failed to demonstrate an infringement on the television and broadcast market.

****NTC Decision:****

The NTC upheld the demurrer, interpreting EO No. 205's phrase "television and broadcast markets" as inclusive of the audience market and upholding CATV operator's right to show advertisements, contingent upon obtaining consent from program providers as per EO No. 436.

****Appeals and Higher Court Decisions:****

GMA Network, Inc. challenged the NTC ruling before the Court of Appeals (CA), which sustained the NTC's decision. The CA held that administrative agencies like the NTC are not strictly bound by technical rules and that EO No. 436 did not overstep its boundaries by qualifying EO No. 205 without expanding, modifying, or repealing it. Dissatisfied, GMA Network, Inc. elevated the matter to the Supreme Court for review.

Issues:

1. **Procedural Error in Demurrer to Evidence:**

- Did the NTC err in granting the demurrer by considering the insufficiency of the complaint and evidence, including the respondent's evidence attached to the motion?

2. **Legality of Commercial Advertisements:**

- Under Section 2 of EO No. 205, in relation to EO No. 436, is Central CATV, Inc. prohibited from showing advertisements on its CATV network?

Court's Decision:

Procedural Issue Ruling:

The Supreme Court agreed that while administrative agencies like the NTC are not bound by technical procedural rules, fundamental evidentiary rules and due process must be upheld. The NTC erred in considering the respondent's evidence attached to the demurrer to evidence since demurrers should only be resolved based on the evidence presented by the plaintiff alone. However, despite the procedural oversight, the NTC's decision was primarily based on the interpretation of EO No. 205 and EO No. 436.

Substantive Issue Ruling:

1. EO No. 205 vs. EO No. 436:

The Court clarified that EO No. 205, issued by President Corazon Aquino, carries legislative authority, while EO No. 436, issued by President Ramos, is an executive issuance, not a law. Misinterpreting EO No. 436 as a law led to erroneous conclusions by the NTC and CA.

2. Non-Infringement Clarified by the "Must-Carry Rule":

Sections 6.2, 6.2.1, and 6.4 of the NTC's Memorandum Circular (MC) 4-08-88, which implement EO No. 205, encapsulate the "must-carry rule." This mandates CATV operators to carry local broadcast signals without alteration or deletion. The phrase "television and broadcast markets" pertains to audience or viewer market, not the commercial market, meaning CATV operators can show advertisements if they do not alter the free-TV broadcasts.

Doctrine:

Essential Principles:

- **Legislative vs. Executive Authority:** EO No. 205 qualifies as a law due to the legislative powers of President Aquino during its issuance. EO No. 436, as an executive order, cannot

alter legislative enactments.

- **“Must-Carry Rule”**: CATV operators must carry the signals of free-to-air TV in full without alterations, but this rule does not preclude them from showing advertisements if program providers consent.

Class Notes:

Key Elements for Memorization:

- **Demurrer to Evidence**: Evaluated based solely on the plaintiff’s evidence, excluding the defendant’s evidence.

- **Must-Carry Rule (MC 4-08-88)**: CATV must carry all free-to-air broadcast signals without alteration.

- **Non-Infringement Principle (EO No. 205, Section 2)**: Infringement pertains to the viewer market, not the advertising market.

- **Differentiation of Executive Orders**: Distinction between legislative executive orders (e.g., EO No. 205) and purely executive orders (e.g., EO No. 436).

Historical Background:

Contextual Importance:

In the post-Marcos era, EO No. 205 helped break monopolies in CATV operations, encouraging competition. EO No. 205 was part of the broader liberalization effort led by President Aquino’s administration to democratize the telecommunications sector. EO No. 436, issued later, aimed to clarify operational guidelines for CATV operators in line with evolving market practices.