

MOVIE AND TELEVISION REVIEW AND CLASSIFICATION BOARD (MTRCB), PETITIONER, VS. ABS-CBN BROADCASTING CORPORATION AND LOREN LEGARDA, RESPONDENTS.

G.R. NO. 155282. January 17, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the petition for review on certiorari under Rule 45 of the 1997 Rules of Court, as amended, filed by petitioner Movie and Television Review and Classification Board (MTRCB) against ABS-CBN Broadcasting Corporation (ABS-CBN) and former Senator Loren Legarda, respondents, assailing the (a) Decision dated November 18, 1997,[1] and (b) Order dated August 26, 2002[2] of the Regional Trial Court, Branch 77, Quezon City, in Civil Case No. Q-93-16052.

The facts are undisputed.

On October 15, 1991, at 10:45 in the evening, respondent ABS-CBN aired “Prosti-tuition,” an episode of the television (TV) program “The Inside Story” produced and hosted by respondent Legarda. It depicted female students moonlighting as prostitutes to enable them to pay for their tuition fees. In the course of the program, student prostitutes, pimps, customers, and some faculty members were interviewed. The Philippine Women’s University (PWU) was named as the school of some of the students involved and the facade of PWU Building at Taft Avenue, Manila conspicuously served as the background of the episode.

The showing of “The Inside Story” caused uproar in the PWU community. Dr. Leticia P. de Guzman, Chancellor and Trustee of the PWU, and the PWU Parents and Teachers Association filed letter-complaints[3] with petitioner MTRCB. Both complainants alleged that the episode besmirched the name of the PWU and resulted in the harassment of some of its female students.

Acting on the letter-complaints, the MTRCB Legal Counsel initiated a formal complaint with the MTRCB Investigating Committee, alleging among others, that respondents (1) did not submit “The Inside Story” to petitioner for its review and (2) exhibited the same without its permission, thus, violating Section 7[4] of Presidential Decree (P.D.) No. 1986[5] and Section 3,[6] Chapter III and Section 7,[7] Chapter IV of the MTRCB Rules and Regulations.[8]

In their answer,[9] respondents explained that the “The Inside Story” is a “public affairs program, news documentary and socio-political editorial,” the airing of which is protected by the constitutional provision on freedom of expression and of the press. Accordingly, petitioner has no power, authority and jurisdiction to impose any form of prior restraint upon respondents.

On February 5, 1993, after hearing and submission of the parties’ memoranda, the MTRCB Investigating Committee rendered a Decision, the decretal portion of which reads:

“WHEREFORE, the aforementioned premises, the respondents are ordered to pay the sum of TWENTY

THOUSAND PESOS (P20,000.00) for non-submission of the program, subject of this case for review and approval of the MTRCB.

Heretofore, all subsequent programs of the 'The Inside Story' and all other programs of the ABS-CBN Channel 2 of the same category shall be submitted to the Board of Review and Approval before showing; otherwise the Board will act accordingly.”[10]

On appeal, the Office of Atty. Henrietta S. Mendez, Chairman of the MTRCB, issued a Decision dated March 12, 1993 affirming the above ruling of its Investigating Committee.[11] Respondents filed a motion for reconsideration but was denied in a Resolution dated April 14, 1993.[12]

Respondents then filed a special civil action for certiorari with the Regional Trial Court (RTC), Branch 77, Quezon City. It seeks to: (1) declare as unconstitutional Sections 3(b),[13] 3(c),[14] 3(d),[15] 4,[16] 7,[17] and 11[18] of P. D. No. 1986 and Sections 3,[19] 7,[20] and 28[21] (a) of the MTRCB Rules and Regulations;[22] (2) (in the alternative) exclude the “The Inside Story” from the coverage of the above cited provisions; and (3) annul and set aside the MTRCB Decision dated March 12, 1993 and Resolution dated April 14, 1993. Respondents averred that the above-cited provisions constitute “prior restraint” on respondents’ exercise of freedom of expression and of the press, and, therefore, unconstitutional. Furthermore, the above cited provisions do not apply to the “The Inside Story” because it falls under the category of “public affairs program, news documentary, or socio-political editorials” governed by standards similar to those governing newspapers.

On November 18, 1997, the RTC rendered a Decision[23] in favor of respondents, the dispositive portion of which reads:

“WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered:

1. ANNULING AND SETTING ASIDE the assailed Decision and Resolution of MTRCB dated March 12, 1993;
2. DECLARING AND DECREETING that Sections 3 (b), (c), and (d), 4, 7, and 11 of P.D. No. 1986 and Sections 3, 7, 28 (a) of its Implementing Rules do not cover the TV Program “The Inside Story” and other similar programs, they being public affairs programs which can be equated to newspapers; and
3. MAKING PERMANENT the Injunction against Respondents or all persons acting in their behalf.

SO ORDERED.”

Petitioner filed a motion for reconsideration but was denied.[24]

Hence, this petition for review on certiorari.

Petitioner MTRCB through the Solicitor General, contends inter alia: first, all television programs, including “public affairs programs, news documentaries, or socio-political editorials,” are subject to petitioner’s power of review under Section 3 (b) of P.D. No. 1986 and pursuant to this Court’s ruling in *Iglesia ni Cristo vs. Court of Appeals*;^[25] second, television programs are more accessible to the public than newspapers, thus, the liberal regulation of the latter cannot apply to the former; third, petitioner’s power to review television programs under Section 3(b) of P. D. No. 1986 does not amount to “prior restraint;” and fourth, Section 3(b) of P. D. No. 1986 does not violate respondents’ constitutional freedom of expression and of the press.

Respondents take the opposite stance.

The issue for our resolution is whether the MTRCB has the power or authority to review the “The Inside Story” prior to its exhibition or broadcast by television.

The petition is impressed with merit.

The present controversy brings into focus the provisions of Section 3 of P. D. No. 1986, partly reproduced as follows:

“SEC. 3. Powers and Functions. – The BOARD shall have the following functions, powers and duties:

x x x x x

b) To screen, review and examine all motion pictures as herein defined, television programs, including publicity materials such as advertisements, trailers and stills, whether such motion pictures and publicity materials be for theatrical or non-theatrical distribution, for television broadcast or for general viewing, imported or produced in the Philippines, and in the latter case, whether they be for local viewing or for export.

c) To approve or disapprove, delete objectionable portions from and/or prohibit the importation, exportation, production, copying, distribution, sale, lease exhibition and/or television broadcast of the motion pictures, television programs and publicity materials subject of the preceding paragraph, which, in the judgment of the BOARD applying contemporary Filipino cultural values as standard, are objectionable for being immoral, indecent, contrary to law and/or good customs, injurious to the prestige of the Republic of the Philippines or its people, or with a dangerous tendency to encourage the commission of violence or of a wrong or crime, such as but not limited to:

x x x

d) To supervise, regulate, and grant, deny or cancel, permits for the importation, exportation, production, copying, distribution, sale, lease, exhibition, and/or television broadcast of all motion pictures, television programs and publicity materials, to the end and that no such pictures, programs and materials as are determined by the BOARD to be objectionable in accordance with paragraph (c) hereof shall be imported, exported, produced, copied, reproduced, distributed, sold, leased, exhibited and/or broadcast by television;

x x x x x.”

Vis-a-vis the foregoing provisions, our task is to decide whether or not petitioner has the power to review the television program “The Inside Story.” The task is not Herculean because it merely resurrects this Court En Banc’s ruling in *Iglesia ni Cristo vs. Court of Appeals*.^[26] There, the *Iglesia ni Cristo* sought exception from petitioner’s review power contending that the term “television programs” under Sec. 3 (b) does not include “religious programs” which are protected under Section 5, Article III of the Constitution.^[27] This Court, through Justice Reynato Puno, categorically ruled that P.D. No. 1986 gives petitioner “the power to screen, review and examine “all television programs,” emphasizing the phrase “all television programs,” thus:

“The law gives the Board the power to screen, review and examine all ‘television programs.’ By the clear terms of the law, the Board has the power to ‘approve, delete x x x and/or prohibit the x x x exhibition and/or television broadcast of x x x television programs x x x.’ The law also directs the Board to apply ‘contemporary Filipino cultural values as standard’ to determine those which are objectionable for being ‘immoral, indecent, contrary to law and/or good customs, injurious to the prestige of the Republic of the Philippines and its people, or with a dangerous tendency to encourage the commission of violence or of a wrong or crime.’”

Settled is the rule in statutory construction that where the law does not make any exception, courts may not except something therefrom, unless there is compelling reason apparent in the law to justify it.^[28] *Ubi lex non distinguit nec distinguere debemus*. Thus, when the law says “all television programs,” the word “all” covers all television programs, whether religious, public affairs, news documentary, etc.^[29] The principle assumes that the legislative body made no qualification in the use of general word or expression.^[30]

It then follows that since “The Inside Story” is a television program, it is within the jurisdiction of the MTRCB over which it has power of review.

Here, respondents sought exemption from the coverage of the term “television programs” on the ground that the “The Inside Story” is a “public affairs program, news documentary and socio-political editorial” protected under Section 4,[31] Article III of the Constitution. Albeit, respondent’s basis is not freedom of religion, as in *Iglesia ni Cristo*,^[32] but freedom of expression and of the press, the ruling in *Iglesia ni Cristo* applies squarely to the instant issue. It is significant to note that in *Iglesia ni Cristo*, this Court declared that freedom of religion has been accorded a preferred status by the framers of our fundamental laws, past and present, “designed to protect the broadest possible liberty of conscience, to allow each man to believe as his conscience directs x x x.” Yet despite the fact that freedom of religion has been accorded a preferred status, still this Court, did not exempt the *Iglesia ni Cristo*’s religious program from petitioner’s review power.

Respondents claim that the showing of “The Inside Story” is protected by the constitutional provision on freedom of speech and of the press. However, there has been no declaration at all by the framers of the Constitution that freedom of expression and of the press has a preferred status.

If this Court, in *Iglesia ni Cristo*, did not exempt religious programs from the jurisdiction and review power of petitioner MTRCB, with more reason, there is no justification to exempt therefrom “The Inside Story” which, according to respondents, is protected by the constitutional provision on freedom of expression and of the press, a freedom bearing no preferred status.

The only exceptions from the MTRCB’s power of review are those expressly mentioned in Section 7 of P. D. No. 1986, such as (1) television programs imprinted or exhibited by the Philippine Government and/or its departments and agencies, and (2) newsreels. Thus:

“SEC. 7. Unauthorized showing or exhibition. – It shall be unlawful for any person or entity to exhibit or cause to be exhibited in any moviehouse, theatre, or public place or by television within the Philippines any motion picture, television program or publicity material, including trailers, and stills for lobby displays in connection with motion pictures, not duly authorized by the owner or his assignee and passed by the BOARD; or to print or cause to be printed on any motion picture to be exhibited in any theater or public place or by television a label or notice showing the same to have been officially passed by the BOARD when the same has not been previously authorized, except motion pictures, television programs or publicity material imprinted or exhibited by the Philippine Government and/or its departments and agencies, and newsreels.”

Still in a desperate attempt to be exempted, respondents contend that the “The Inside Story” falls under the category of newsreels.

Their contention is unpersuasive.

P. D. No. 1986 does not define “newsreels.” Webster’s dictionary defines newsreels as short motion picture films portraying or dealing with current events.^[33] A glance at actual samples of newsreels shows that they are mostly reenactments of events that had already happened. Some concrete examples are those of Dziga Vertov’s Russian *Kino-Pravda* newsreel series (*Kino-Pravda* means literally “film-truth,” a term that was later translated literally into the French cinema verite) and Frank Capra’s *Why We Fight* series.^[34] Apparently, newsreels are straight presentation of events. They are depiction of “actualities.” Correspondingly, the MTRCB Rules and Regulations^[35] implementing P. D. No. 1986 define newsreels as “straight news reporting, as distinguished from news analyses, commentaries and opinions. Talk shows on a given issue are not considered newsreels.”^[36] Clearly, the “The Inside Story” cannot be considered a newsreel. It is more of a public affairs program which is described as a variety of news treatment; a cross between pure television news and news-related commentaries,

analysis and/or exchange of opinions.[37] Certainly, such kind of program is within petitioner's review power.

It bears stressing that the sole issue here is whether petitioner MTRCB has authority to review "The Inside Story." Clearly, we are not called upon to determine whether petitioner violated Section 4, Article III (Bill of Rights) of the Constitution providing that no law shall be passed abridging the freedom of speech, of oppression or the press. Petitioner did not disapprove or ban the showing of the program. Neither did it cancel respondents' permit. Respondents were merely penalized for their failure to submit to petitioner "The Inside Story" for its review and approval. Therefore, we need not resolve whether certain provisions of P. D. No. 1986 and the MTRCB Rules and Regulations specified by respondents contravene the Constitution.

Consequently, we cannot sustain the RTC's ruling that Sections 3 (c) (d), 4, 7 and 11 of P. D. No. 1986 and Sections 3, 7 and 28 (a) of the MTRCB Rules and Regulations are unconstitutional. It is settled that no question involving the constitutionality or validity of a law or governmental act may be heard and decided by the court unless there is compliance with the legal requisites for judicial inquiry, namely: (1) that the question must be raised by the proper party; (2) that there must be an actual case or controversy; (3) that the question must be raised at the earliest possible opportunity; and, (4) that the decision on the constitutional or legal question must be necessary to the determination of the case itself.[38]

WHEREFORE, the instant petition is GRANTED. The assailed RTC Decision dated November 18, 1997 and Order dated August 26, 2002 are hereby REVERSED. The Decision dated March 12, 1993 of petitioner MTRCB is AFFIRMED. Costs against respondents.

SO ORDERED.

Panganiban, (Chairman), Corona, Carpio-Morales, and Garcia, JJ., concur.

[1] Penned by Judge Normandie B. Pizarro, Rollo at 73-81.

[2] Id. at 86-91.

[3] Dated October 28, 1991

[4] "SECTION 7. Unauthorized showing or exhibition. – It shall be unlawful for any person or entity to exhibit or cause to be exhibited in any moviehouse, theater or public place or television within the Philippines any motion picture, television program or publicity material, including trailers, and stills for lobby displays in connection with motion pictures, not duly authorized by the owner or is assignee and passed by the BOARD; or to print or cause to be printed on any motion picture to be exhibited in any theater or public place or by television a label or notice showing the same to have been officially passed by the BOARD when the same has not been previously authorized, except motion pictures, television programs or publicity material imprinted or exhibited by the Philippine Government and/or its departments and agencies, and newsreels."

[5] "Creating the Movie and Television Review and Classification Board."

[6] "SECTION 3. Matters subject to review – All motion pictures, television programs and publicity materials, as defined in Chapter 1 hereof, whether these be for theatrical or non-theatrical distribution, for television broadcast or general viewing, imported or produced in the Philippines, and in the latter case, whether they be for local viewing or for export, shall be subject to review by the BOARD before they are exported, imported, copied, distributed, sold, leased, exhibited or broadcast by television;"

[7] "SECTION 7. REQUIREMENT OF PRIOR REVIEW – No motion picture, television program or related

publicity material shall be imported, exported, produced, copied, distributed, sold, leased, exhibited or broadcast by television without prior permit issued by the BOARD after review of the motion picture, television program or publicity material.”

[8] Approved on July 27, 1993.

[9] Dated November 18, 1991.

[10] Annex “D” at 1, Petition, Rollo at 92.

[11] Rollo at 92-99.

[12] Id. at 100-106.

[13] b) To screen, review and examine all motion pictures as herein defined, television programs, including publicity materials such as advertisements, trailers and stills, whether such motion pictures and publicity materials be for theatrical or non-theatrical distribution, for television broadcast or for general viewing, imported or produced in the Philippines, and in the latter case, whether they be for local viewing or for export;

[14] c) To approve or disapprove, delete objectionable portions from and/or prohibit the importation, exportation, production, copying, distribution, sale, lease, exhibition and/or television broadcast of the motion pictures, television programs and publicity materials subject of the preceding paragraph, which, in the judgment of the board applying contemporary Filipino cultural values as standard, are objectionable for being immoral, indecent, contrary to law and/or good customs, injurious to the prestige of the Republic of the Philippines or its people, or with a dangerous tendency to encourage the commission of violence or of a wrong or crime, such as but not limited to:

[15] d) To supervise, regulate, and grant, deny or cancel, permits for the importation, exportation, production, copying, distribution, sale, lease, exhibition, and/or television broadcast of all motion pictures, television programs and publicity materials, to the end that no such pictures, programs and materials as are determined by the BOARD to be objectionable in accordance with paragraph (c) hereof shall be imported, exported, produced, copied, reproduced, distributed, sold, leased, exhibited and/or broadcast by television;

[16] “SECTION 4. Decision. – The decision of the BOARD either approving or disapproving for exhibition in the Philippines a motion picture, television program, still and other pictorial advertisement submitted to it for examination and review must be rendered within a period of ten (10) days which shall be counted from the date of receipt by the BOARD of an application for the purpose, together with motion picture, television program, still or other pictorial advertisement to be reviewed.”

[17] Supra.

[18] “SECTION 11. Penalty. – Any person who violates the provisions of this Decree and/or the implementing rules and regulations issued by the BOARD, shall, upon conviction, be punished by a mandatory penalty of three (3) months and one day to one (1) year imprisonment plus a fine of not less than fifty thousand pesos. The penalty shall apply whether the person shall have committed the violation either as principal, accomplice or accessory. If the offender is an alien, he shall be deported immediately. The license to operate the moviehouse, theater, or television station shall also be revoked. Should the offense be committed by a juridical person, the chairman, the president, secretary, treasurer, or the partner responsible therefore, shall be the persons penalized.”

[19] Supra.

[20] “SECTION 7. REQUIREMENT OF PRIOR REVIEW. – No motion picture, television program or related

publicity material shall be imported, exported, produced, copied, distributed, sold, leased, exhibited or broadcast by television without prior permit issued by the BOARD after review of the motion picture, television program or publicity material.”

[21] “SECTION 28. OFFENSES AND ADMINISTRATIVE PENALTIES – Without prejudice to the institution of appropriate criminal action, violations of the laws and rules governing motion pictures, television programs, and related publicity materials shall be administratively penalized with suspension or cancellation of permits and licenses issued by the BOARD, depending on the gravity of the offense or in lieu thereof, the Chairman of the BOARD or the Hearing and Adjudication Committee, in his or its discretion, allow the payment of an administrative fine by the guilty party. The imposition of the administrative penalties for violation of Presidential Decree 1986 of its rules shall be in accordance with the table of penalties duly promulgated by the BOARD.”

[22] Approved on December 19, 1985.

[23] Rollo at 73-81.

[24] RTC Order dated August 26, 2002, Rollo at 82-85.

[25] G.R. No. 119673, July 26, 1996, 259 SCRA 529.

[26] Supra.

[27] “No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.”

[28] Tolentino vs. Catoy, 82 Phil. 300 (1948).

[29] See Olfato vs. Commission on Elections, G.R. No. 52749, March 31, 1981, 103 SCRA 741.

[30] Agpalo, Statutory Construction, Third Edition, 1995, at 153.

[31] “SECTION 4. No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.”

[32] Supra.

[33] Merriam Webster’s Third New International Dictionary (1993 Phil. Copyright).

[34] Documentary Film, Wikipedia Encyclopedia, December 21, 2004, http://en.wikipedia.org/wiki/Documentary_film.

The newsreel tradition is an important tradition in documentary film; newsreels were also sometimes staged but were usually reenactments of events that had already happened, not attempts to steer events as they were in the process of happening. For instance, much of the battle footage from the early 20th century was staged – the cameramen would usually arrive on site after a major battle and reenact scenes to film them.

In the Kino-Pravda series, Vertov focused on everyday experiences, eschewing bourgeois concerns and filming marketplaces, bars, and schools instead, sometimes with a hidden camera, without asking permission first. The stories were typically descriptive, not narrative, and included vignettes and exposes, showing for instance the renovation of a trolley system, the organization of farmers into communes, and the trial of Social Revolutionaries; one story shows starvation in the nascent Marxist state. Vertov’s driving vision was to capture “film-truth” – that is, fragments of actuality, which when organized together, have a deeper truth that cannot be seen with the naked eye. (Dziga Vertov, Wikipedia Encyclopedia, December 21, 2004, <http://en.wikipedia.org/wiki/Dziga-Vertov>.)

[35] Promulgated on August 22, 1993.

[36] Section 1(m), Chapter I, 1993 Implementing Rules and Regulations.

[37] TSN, September 2, 1994 at 13-14; see Rollo at 159.

[38] Macasiano vs. National Housing Authority, G. R. No. 107921, July 1, 1993, 224 SCRA 236.

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