

AYER PRODUCTIONS PTY. LTD. AND MCELROY & MCELROY FILM PRODUCTIONS, PETITIONERS, VS. HON. IGNACIO M. CAPULONG AND JUAN PONCE ENRILE, RESPONDENTS.

G.R. No. 82380. April 29, 1988

Ponente: FELICIANO, J.

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FELICIANO, J.:

Petitioner Hal McElroy, an Australian film maker, and his movie production company, petitioner Ayer Productions Pty. Ltd. ("Ayer Productions"),^[1] envisioned, sometime in 1987, the filming for commercial viewing and for Philippine and international release, the historic peaceful struggle of the Filipinos at EDSA (Epifanio de los Santos Avenue). Petitioners discussed this project with local movie producer Lope V. Juban, who suggested that they consult with the appropriate government agencies and also with General Fidel V. Ramos and Senator Juan Ponce Enrile, who had played major roles in the events proposed to be filmed.

The proposed motion picture entitled "The Four Day Revolution" was endorsed by the Movie Television Review and Classification Board as well as the other government agencies consulted. General Fidel Ramos also signified his approval of the intended film production.

In a letter dated 16 December 1987, petitioner Hal McElroy, informed private respondent Juan Ponce Enrile about the projected motion picture enclosing a synopsis of it, the full text of which is set out below:

"The Four Day Revolution is a six hour mini-series about People Power - a unique event in modern history - that made possible the peaceful revolution in the Philippines in 1986.

Faced with the task of dramatising these remarkable events, screenwriter David Williamson and history Prof. Al McCoy have chosen a 'docu-drama' style and created [four] fictitious characters to trace the revolution from the death of Senator Aquino, to the February revolution and the fleeing of Marcos from the country.

These characters' stories have been woven through the real events to help our huge international audience understand this extraordinary period in Filipino history.

First, there's Tony O'Neil, an American television journalist working for a major network. Tony reflects the average American attitude to the Philippines - once a colony, now the home of crucially important military bases. Although Tony is aware of the corruption and of Marcos' megalomania, for him, there appears to be no alternative to Marcos except the Communists.

Next, Angie Fox, a fiery Australian photojournalist. A 'new girl in town', she is quickly caught up in the events as it becomes clear that the time has come for a change. Through Angie and her relationship with one of the Reform Army Movement Colonels (a fictitious character), we follow the developing discontent in the armed forces. Their dislike for General Ver, their strong loyalty to Defense Minister Enrile, and ultimately their defection from Marcos.

The fourth fictitious character is Ben Balano, a middle-aged editor of a Manila newspaper who despises the

Marcos regime and is a supporter and promoter of Cory Aquino. Ben has two daughters, Celie - a left-wing lawyer who is a secret member of the New People's Army, and Eva - a P.R. girl, politically moderate and very much in love with Tony. Ultimately, she must choose between her love and the revolution.

Through the interviews and experiences of these central characters, we show the complex nature of Filipino society, and the intertwining series of events and characters that triggered these remarkable changes.

Through them also, we meet all of the principal characters and experience directly dramatic recreation of the revolution. The story incorporates actual documentary footage filmed during the period which we hope will capture the unique atmosphere and forces that combined to overthrow President Marcos.

David Williamson is Australia's leading playwright with some 14 hugely successful plays to his credit ('Don's Party', 'The Club', 'Travelling North') and 11 feature films ('The Year of Living Dangerously', 'Gallipoli', 'Phar Lap'). Professor McCoy (University of New South Wales) is an American historian with a deep understanding of the Philippines, who has worked on the research for this project for some 18 months. Together with David Williamson they have developed a script we believe accurately depicts the complex issues and events that occurred during the period.

The six hour mini-series is a McElroy and McElroy co-production with Home Box Office in America, the Australian Broadcasting Corporation in Australia and Zenith Productions in the United Kingdom."

The proposed motion picture would be essentially a reenactment of the events that made possible the EDSA revolution; it is designed to be viewed in a six-hour mini-series television play, presented in a "docu-drama" style, creating four (4) fictional characters interwoven with real events, and utilizing actual documentary footage as background.

On 21 December 1987, private respondent Enrile replied that "[he] would not and will not approve of the use, appropriation, reproduction and/or exhibition of his name, or picture, or that of any member of his family in any cinema or television production, film or other medium for advertising or commercial exploitation" and further advised petitioners that "in the production, airing, showing, distribution or exhibition of said or similar film, no reference whatsoever (whether written, verbal or visual) should be made to [him] or any member of his family, much less to any matter purely personal to them."

It appears that petitioners acceded to this demand and the name of private respondent Enrile was deleted from the movie script, and petitioners proceeded to film the projected motion picture.

On 23 February 1988, private respondent filed a Complaint with application for Temporary Restraining Order and Writ of Preliminary Injunction with the Regional Trial Court of Makati, docketed as Civil Case No. 88-151 in Branch 134 thereof, seeking to enjoin petitioners from producing the movie "The Four Day Revolution". The complaint alleged that petitioners' production of the mini-series without private respondent's consent and over his objection, constitutes an obvious violation of his right of privacy. On 24 February 1988, the trial court issued ex-parte a Temporary Restraining Order and set for hearing the application for preliminary injunction.

On 9 March 1988, Hal McElroy filed a Motion to Dismiss with Opposition to the Petition for Preliminary Injunction contending that the mini-series film would not involve the private life of Juan Ponce Enrile nor that of his family and that a preliminary injunction would amount to a prior restraint on their right of free expression. Petitioner Ayer Productions also filed its own Motion to Dismiss alleging lack of cause of action as the mini-series had not yet been completed.

In an Order^[2] dated 16 March 1988, respondent court issued a writ of Preliminary Injunction against the petitioners, the dispositive portion of which reads thus:

WHEREFORE, let a writ of preliminary injunction be issued, ordering defendants, and all persons and entities employed or under contract with them, including actors, actresses and members of the production staff and crew, as well as all persons and entities acting on defendants' behalf, to cease and desist from producing and filming the mini-series entitled "The Four Day Revolution" and from making any reference whatsoever to plaintiff or his family and from creating any fictitious character in lieu of plaintiff which nevertheless is based on, or bears remote, substantial or marked resemblance or similarity to, or is otherwise identifiable with, plaintiff in the production and filming any similar film or photoplay, until further orders from this Court, upon plaintiff's filing of a bond in the amount of P2,000,000.00, to answer for whatever damages defendants may suffer by reason of the injunction if the Court should finally decide that plaintiff was not entitled thereto.

xxx xxx xxx."

(Underscoring supplied)

On 22 March 1988, petitioner Ayer Productions came to this Court by a Petition for Certiorari dated 21 March 1988 with an urgent prayer for Preliminary Injunction or Restraining Order, which petition was docketed as G.R. No. L-82380.

A day later, or on 23 March 1988, petitioner Hal McElroy also filed a separate Petition for Certiorari with Urgent Prayer for a Restraining Order or Preliminary Injunction, dated 22 March 1988, docketed as G.R. No. L-82398.

By a Resolution dated 24 March 1988, the petitions were consolidated and private respondent was required to file a consolidated Answer. Further, in the same Resolution, the Court granted a limited Temporary Restraining Order partially enjoining the implementation of the respondent Judge's Order of 16 March 1988 and the Writ of Preliminary Injunction issued therein, and allowing the petitioners to resume producing and filming those portions of the projected mini-series which do not make any reference to private respondent or his family or to any fictitious character based on or bearing substantial resemblance or similarity to or identifiable as private respondent.

Private respondent seasonably filed his Consolidated Answer on 6 April 1988 invoking in the main a right of privacy.

I

The constitutional and legal issues raised by the present Petitions are sharply drawn. Petitioners' claim that in producing and filming "The Four Day Revolution", they are exercising their freedom of speech and of expression protected under our Constitution. Private respondent, upon the other hand, asserts a right of privacy and claims that the production and filming of the projected mini-series would constitute an unlawful intrusion into his privacy which he is entitled to enjoy.

Considering first petitioners' claim to freedom of speech and of expression, the Court would once more stress that this freedom includes the freedom to film and produce motion pictures and to exhibit such motion pictures in theaters or to diffuse them through television. In our day and age, motion pictures are a universally utilized vehicle of communication and medium of expression. Along with the press, radio and television, motion pictures constitute a principal medium of mass communication for information, education and entertainment. In *Gonzales v. Katigbak*,^[3] former Chief Justice Fernando, speaking for the Court, explained:

"1. Motion pictures are important both as a medium for the communication of ideas and the expression of the artistic impulse. Their effects on the perception by our people of issues and public officials or public figures as well as the prevailing cultural traits is considerable. Nor as pointed out in *Burstyn v. Wilson* (343 US 495 [1942]) is the 'importance of motion pictures as an organ of public opinion lessened by the fact that they are designed to entertain as well as to inform' (*Ibid*, 501). There is no clear dividing line between what involves knowledge and what affords pleasure. If such a distinction were sustained, there is a diminution of the basic

right to free expression. x x x"[4]

This freedom is available in our country both to locally-owned and to foreign-owned motion picture companies. Furthermore, the circumstance that the production of motion picture films is a commercial activity expected to yield monetary profit, is not a disqualification for availing of freedom of speech and of expression. In our community as in many other countries, media facilities are owned either by the government or the private sector but the private sector-owned media facilities commonly require to be sustained by being devoted in whole or in part to revenue producing activities. Indeed, commercial media constitute the bulk of such facilities available in our country and hence to exclude commercially owned and operated media from the exercise of constitutionally protected freedom of speech and of expression can only result in the drastic contraction of such constitutional liberties in our country.

The counter-balancing claim of private respondent is to a right of privacy. It was demonstrated sometime ago by the then Dean Irene R. Cortes that our law, constitutional and statutory, does include a right of privacy.[5] It is left to caselaw, however, to mark out the precise scope and content of this right in differing types of particular situations. The right of privacy or "the right to be let alone",[6] like the right of free expression, is not an absolute right. A limited intrusion into a person's privacy has long been regarded as permissible where that person is a public figure and the information sought to be elicited from him or to be published about him constitute matters of a public character.[7] Succinctly put, the right of privacy cannot be invoked to resist publication and dissemination of matters of public interest.[8] The interest sought to be protected by the right of privacy is the right to be free from "unwarranted publicity, from the wrongful publicizing of the private affairs and activities of an individual which are outside the realm of legitimate public concern".[9]

Lagunzad v. Vda. de Gonzales,[10] on which private respondent relies heavily, recognized a right to privacy in a context which included a claim to freedom of speech and of expression. Lagunzad involved a suit for enforcement of a licensing agreement between a motion picture producer as licensee and the widow and family of the late Moises Padilla as licensors. This agreement gave the licensee the right to produce a motion picture portraying the life of Moises Padilla, a mayoralty candidate of the Nacionalista Party for the Municipality of Magallon, Negros Occidental during the November 1951 elections and for whose murder, Governor Rafael Lacson, a member of the Liberal Party then in power and his men were tried and convicted.[11] In affirming the judgment of the lower court enforcing the licensing agreement against the licensee who had produced the motion picture and exhibited it but refused to pay the stipulated royalties, the Court, through Mme. Justice Melencio-Herrera, said:

"Neither do we agree with petitioner's submission that the Licensing Agreement is null and void for lack of, or for having an illegal cause or consideration, while it is true that petitioner had purchased the rights to the book entitled 'The Moises Padilla Story,' that did not dispense with the need for prior consent and authority from the deceased heirs to portray publicly episodes in said deceased's life and in that of his mother and the members of his family. As held in *Schuyler v. Curtis*, ([1895], 147 NY 434, 42 NE, 31 LRA 286, 49 Am St Rep 671), 'a privilege may be given the surviving relatives of a deceased person to protect his memory, but the privilege exists for the benefit of the living, to protect their feelings and to prevent a violation of their own rights in the character and memory of the deceased.'

Petitioner's averment that private respondent did not have any property right over the life of Moises Padilla since the latter was a public figure, is neither well taken. Being a public figure ipso facto does not automatically destroy in toto a person's right to privacy. The right to invade a person's privacy to disseminate public information does not extend to a fictional or novelized representation of a person, no matter how public a figure he or she may be (*Garner v. Triangle Publications*, DCNY, 97 F. Supp., 564, 549 [1951]). In the case at bar, while it is true that petitioner exerted efforts to present a true-to-life story of Moises Padilla, petitioner admits that he included a little romance in the film because without it, it would be a drab story of torture and brutality." [12]

In *Lagunzad*, the Court had need, as we have in the instant case, to deal with contraposed claims to freedom of speech and of expression and to privacy. *Lagunzad* the licensee in effect claimed, in the name of freedom of speech and expression, a right to produce a motion picture biography at least partly "fictionalized" of Moises Padilla without the consent of and without paying pre-agreed royalties to the widow and family of Padilla. In rejecting the licensee's claim, the Court said:

Lastly, neither do we find merit in petitioner's contention that the Licensing Agreement infringes on the constitutional right of freedom of speech and of the press, in that, as a citizen and as a newspaperman, he had the right to express his thoughts in film on the public life of Moises Padilla without prior restraint. The right of freedom of expression, indeed, occupies a preferred position in the 'hierarchy of civil liberties' (*Philippine Blooming Mills Employees Organization v. Philippine Blooming Mills Co., Inc.*, 51 SCRA 191 [1963]). It is not, however, without limitations. As held in *Gonzales v. Commission on Elections*, 27 SCRA 835, 858 [1960]:

x x x x x x x x

The prevailing doctrine is that the clear and present danger rule is such a limitation. Another criterion for permissible limitation on freedom of speech and of the press, which includes such vehicles of the mass media as radio, television and the movies, is the 'balancing-of-interests test' (Chief Justice Enrique M. Fernando on the Bill of Rights, 1970 ed., p. 79). The principle 'requires a court to take conscious and detailed consideration of the interplay of interests observable in a given situation or type of situation' (Separate Opinion of the late Chief Justice Castro in *Gonzales v. Commission on Elections*, supra, p. 899).

In the case at bar, the interests observable are the right to privacy asserted by respondent and the right of freedom of expression invoked by petitioner. Taking into account the interplay of those interests, we hold that under the particular circumstances presented, and considering the obligations assumed in the Licensing Agreement entered into by petitioner, the validity of such agreement will have to be upheld particularly because the limits of freedom of expression are reached when expression touches upon matters of essentially private concern."^[13]

Whether the "balancing of interests test" or the "clear and present danger test" be applied in respect of the instant Petitions, the Court believes that a different conclusion must here be reached: The production and filming by petitioners of the projected motion picture "The Four Day Revolution" does not, in the circumstances of this case, constitute an unlawful intrusion upon private respondent's "right of privacy".

- It may be observed at the outset that what is involved in the instant case is a prior and direct restraint on the part of the respondent Judge upon the exercise of speech and of expression by petitioners. The respondent Judge has restrained petitioners from filming and producing the entire proposed motion picture. It is important to note that in *Lagunzad*, there was no prior restraint of any kind imposed upon the movie producer who in fact completed and exhibited the film biography of Moises Padilla. Because of the preferred character of the constitutional rights of freedom of speech and of expression, a weighty presumption of invalidity vitiates measures of prior restraint upon the exercise of such freedoms.^[14] The invalidity of a measure of prior restraint does not, of course, mean that no subsequent liability may lawfully be imposed upon a person claiming to exercise such constitutional freedoms. The respondent Judge should have stayed his hand, instead of issuing an ex-parte Temporary Restraining Order one day after filing of a complaint by the private respondent and issuing a Preliminary Injunction twenty (20) days later; for the projected motion picture was as yet uncompleted and hence not exhibited to any audience. Neither private respondent nor the respondent trial Judge knew what the completed film would precisely look like. There was, in other words, no "clear and present danger" of any violation of any right to privacy that private respondent could lawfully assert.

- The subject matter of "The Four Day Revolution" relates to the non-bloody change of government that took place at Epifanio de los Santos Avenue in February 1986, and the train of events which led up to that dénouement. Clearly, such subject matter is one of public interest and concern. Indeed, it is, petitioners' argue,

of international interest. The subject thus relates to a highly critical stage in the history of this country and as such, must be regarded as having passed into the public domain and as an appropriate subject for speech and expression and coverage by any form of mass media. The subject matter, as set out in the synopsis provided by the petitioners and quoted above, does not relate to the individual life and certainly not to the private life of private respondent Ponce Enrile. Unlike in *Lagunzad*, which concerned the life story of Moises Padilla necessarily including at least his immediate family, what we have here is not a film biography, more or less fictionalized, of private respondent Ponce Enrile. "The Four Day Revolution" is not principally about, nor is it focused upon, the man Juan Ponce Enrile; but it is compelled, if it is to be historical, to refer to the role played by Juan Ponce Enrile in the precipitating and the constituent events of the change of government in February 1986.

- The extent of the intrusion upon the life of private respondent Juan Ponce Enrile that would be entailed by the production and exhibition of "The Four Day Revolution" would, therefore, be limited in character. The extent of that intrusion, as this Court understands the synopsis of the proposed film, may be generally described as such intrusion as is reasonably necessary to keep that film a truthful historical account. Private respondent does not claim that petitioners threatened to depict in "The Four Day Revolution" any part of the private life of private respondent or that of any member of his family.

- At all relevant times, during which the momentous events, clearly of public concern, that petitioners propose to film were taking place, private respondent was what Profs. Prosser and Keeton have referred to as a "public figure":

"A public figure has been defined as a person who, by his accomplishments, fame, or mode of living, or by adopting a profession or calling which gives the public a legitimate interest in his doings, his affairs, and his character, has become a 'public personage.' He is, in other words, a celebrity. Obviously to be included in this category are those who have achieved some degree of reputation by appearing before the public, as in the case of an actor, a professional baseball player, a pugilist, or any other entertainer. The list is, however, broader than this. It includes public officers, famous inventors and explorers, war heroes and even ordinary soldiers, an infant prodigy, and no less a personage than the Grand Exalted Ruler of a lodge. It includes, in short, anyone who has arrived at a position where public attention is focused upon him as a person.

Such public figures were held to have lost, to some extent at least, their right of privacy. Three reasons were given, more or less indiscriminately, in the decisions: that they had sought publicity and consented to it, and so could not complain when they received it; that their personalities and their affairs had already become public, and could no longer be regarded as their own private business; and that the press had a privilege, under the Constitution, to inform the public about those who have become legitimate matters of public interest. On one or another of these grounds, and sometimes all, it was held that there was no liability when they were given additional publicity, as to matters legitimately within the scope of the public interest they had aroused.

The privilege of giving publicity to news, and other matters of public interest, was held to arise out of the desire and the right of the public to know what is going on in the world, and the freedom of the press and other agencies of information to tell it. 'News' includes all events and items of information which are out of the ordinary humdrum routine, and which have 'that indefinable quality of information which arouses public attention.' To a very great extent the press, with its experience or instinct as to what its readers will want, has succeeded in making its own definition of news, as a glance at any morning newspaper will sufficiently indicate. It includes homicide and other crimes, arrests and police raids, suicides, marriages and divorces, accidents, a death from the use of narcotics, a woman with a rare disease, the birth of a child to a twelve year old girl, the reappearance of one supposed to have been murdered years ago, and undoubtedly many other similar matters of genuine, if more or less deplorable, popular appeal.

The privilege of enlightening the public was not, however, limited to the dissemination of news in the sense of current events. It extended also to information or education, or even entertainment and amusement, by books,

articles, pictures, films and broadcasts concerning interesting phases of human activity in general, as well as the reproduction of the public scene in newsreels and travelogues. In determining where to draw the line, the courts were invited to exercise a species of censorship over what the public may be permitted to read; and they were understandably liberal in allowing the benefit of the doubt.”[15]

Private respondent is a “public figure” precisely because, inter alia, of his participation as a principal actor in the culminating events of the change of government in February 1986. Because his participation therein was major in character, a film reenactment of the peaceful revolution that fails to make reference to the role played by private respondent would be grossly unhistorical. The right of privacy of a “public figure” is necessarily narrower than that of an ordinary citizen. Private respondent has not retired into the seclusion of simple private citizenship. He continues to be a “public figure”. After a successful political campaign during which his participation in the EDSA Revolution was directly or indirectly referred to in the press, radio and television, he sits in a very public place, the Senate of the Philippines.

- The line of equilibrium in the specific context of the instant case between the constitutional freedom of speech and of expression and the right of privacy, may be marked out in terms of a requirement that the proposed motion picture must be fairly truthful and historical in its presentation of events. There must, in other words, be no knowing or reckless disregard of truth in depicting the participation of private respondent in the EDSA Revolution.[16] There must, further, be no presentation of the private life of the unwilling private respondent and certainly no revelation of intimate or embarrassing personal facts.[17] The proposed motion picture should not enter into what Mme. Justice Melencio-Herrera in *Lagunza* referred to as “matters of essentially private concern”. [18] To the extent that “The Four Day Revolution” limits itself in portraying the participation of private respondent in the EDSA Revolution to those events which are directly and reasonably related to the public facts of the EDSA Revolution, the intrusion into private respondent’s privacy cannot be regarded as unreasonable and actionable. Such portrayal may be carried out even without a license from private respondent.

II

In a Manifestation dated 30 March 1988, petitioner Hal McElroy informed this Court that a Temporary Restraining Order dated 25 March 1988, was issued by Judge Teofilo Guadiz of the Regional Trial Court of Makati, Branch 147, in Civil Case No. 88-413, entitled “Gregorio B. Honasan vs. Ayer Productions Pty. Ltd., McElroy and McElroy Film Productions, Hal McElroy, Lope Juban and PMP Motion for Pictures Production” enjoining him and his production company from further filming any scene of the projected mini-series film. Petitioner alleged that Honasan’s complaint was a “scissors and paste” pleading, cut out straight from the complaint of private respondent Ponce Enrile in Civil Case No. 88-151. Petitioner Ayer Productions, in a separate Manifestation dated 4 April 1988, brought to the attention of the Court the same information given by petitioner Hal McElroy, reiterating that the complaint of Gregorio B. Honasan was substantially identical to that filed by private respondent herein and stating that in refusing to join Honasan in Civil Case No. 88-151, counsel for private respondent, with whom counsel for Gregorio Honasan are apparently associated, deliberately engaged in “forum shopping”.

Private respondent filed a Counter-Manifestation on 13 April 1988 stating that the “slight similarity” between private respondent’s complaint and that of Honasan in the construction of their legal basis of the right to privacy as a component of the cause of action is understandable considering that court pleadings are public records; that private respondent’s cause of action for invasion of privacy is separate and distinct from that of Honasan’s, although they arose from the same tortious act of petitioners; that the rule on permissive joinder of parties is not mandatory and that, the cited cases on “forum shopping” were not in point because the parties here and those in Civil Case No. 88-413 are not identical.

For reasons that by now have become clear, it is not necessary for the Court to deal with the question of whether or not the lawyers of private respondent Ponce Enrile have engaged in “forum shopping”. It is, however, important to dispose of the complaint filed by former Colonel Honasan who, having refused to subject himself to the legal processes of the Republic and having become once again a fugitive from justice, must be deemed to have forfeited any right he might have had to protect his privacy through court processes.

WHEREFORE,

a)

the Petitions for Certiorari are GRANTED DUE COURSE, and the Order dated 16 March 1988 of respondent trial court granting a Writ of Preliminary Injunction is hereby SET ASIDE. The limited Temporary Restraining Order granted by this Court on 24 March 1988 is hereby MODIFIED by enjoining unqualifiedly the implementation of respondent Judge’s Order of 16 March 1988 and made PERMANENT, and

b)

Treating the Manifestations of petitioners dated 30 March 1988 and 4 April 1988 as separate Petitions for Certiorari with Prayer for Preliminary Injunction or Restraining Order, the Court, in the exercise of its plenary and supervisory jurisdiction, hereby REQUIRES Judge Teofilo Guadiz of the Regional Trial Court of Makati, Branch 147, forthwith to DISMISS Civil Case No. 88-413 and accordingly to SET ASIDE and DISSOLVE his Temporary Restraining Order dated 25 March 1988 and any Preliminary Injunction that may have been issued by him.

No pronouncement as to costs.

SO ORDERED.

Yap, C.J., Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Gancayco, Padilla, Bidin, Sarmiento, Cortes, and Griño-Aquino, JJ., concur.

[1] On 7 April 1988, petitioners in G.R. No. 82380 asked for deletion of "McElroy and McElroy Film Productions" as party petitioner stating that it was not a separate company but merely a corporate tradename used by Ayer Productions. "McElroy and McElroy Film Productions" will therefore be disregarded in this Decision.

[2] Annex "A" of the Petitions.

[3] 137 SCRA 717 (1985).

[4] 137 SCRA at 723.

[5] "The Constitutional Foundations of Privacy", in Cortes, *Emerging Trends in Law*, pp. 1-70 (Univ. of the Philippines Press, 1983). This lecture was originally delivered in 1970.

[6] See Cortes, *supra* Note 5 at 12 et seq. where she traces the history of the development of privacy as a legal concept.

[7] Prosser and Keeton on Torts, 5th ed., pp. 854-863 (1984); and see, e.g., *Strykers v. Republic Producers Corp.*, 238 P 2d 670 (1952).

[8] *Nixon v. Administrator of General Services* 433 U.S. 425, 53 L. Ed. 2d 867 (1977).

[9] *Smith v. National Broadcasting Co.*, 292 P 2d 600 (1956); underscoring supplied.

[10] 92 SCRA 476 (1979).

[11] *People v. Lacson, et al.*, 111 Phil. 1 (1961).

[12] 92 SCRA 486-487

[13] 92 SCRA at 488-489; Underscoring supplied.

[14] *Mutuc v. Commission on Elections*, 36 SCRA 228 (1970); *New York Times Co. v. United States* 403 U.S. 713, 29 L. Ed. 2d 822 (1971); *Times Film Corporation v. City of Chicago* 365 U.S. 43, 5 L. Ed. 2d 403 (1961); *Near v. Minnesota* 283 U.S. 67, 75 L. Ed. 1357 (1931).

[15] *Prosser and Keeton on Torts*, 5th ed. at 859-861 (1984); underscoring supplied.

[16] *Time Inc. v. Hill* 385 U.S. 374, 17 L. Ed. 2d 456 (1967); *New York Times Co. v. Sullivan* 376 U.S. 254, 11 L. Ed. 2d 686 (1964); and *Cox Broadcasting Corp. v. Cohn* 420 U.S. 469, 43 L. Ed. 2d 328 (1975).

[17] See *Sidis v. F-R Publishing Corp.* 113 F. 2d 806 (2d Cir. 1940) cert. denied 311 U.S. 711, 85 L. Ed. 462.

[18] 92 SCRA at 489.

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