

SECOND DIVISION

[G.R. No. 192128 & 192135-36, September 13, 2017]

**GMA NETWORK, INC., PETITIONER, VS. NATIONAL
TELECOMMUNICATIONS COMMISSION, RESPONDENT.**

DECISION

CAGUIOA, J:

This is a Petition for Review on Certiorari^[1] under Rule 45 of the Rules of Court assailing the Decision^[2] of the Court of Appeals^[3] (CA) dated April 29, 2010 in CA-G.R. SP Nos. 109954, 110145 and 110148, denying the petitions filed by petitioner GMA Network, Inc. (petitioner GMA), against the assailed Orders issued by the respondent National Telecommunications Commission (respondent NTC) dated January 11, 2007, February 26, 2009 and May 25, 2009.

Facts

The Decision of the CA dated April 29, 2010 states the facts as follows:

Petitioner GMA Network, Inc. (GMA), formerly known as Republic Broadcasting System, Inc., is a Filipino-owned domestic corporation engaged in the business of radio and television broadcasting as a grantee of a legislative franchise by virtue of Republic Act (R.A.) No. 7252 enacted on March 20, 1992, to construct, install, operate and maintain radio and television broadcasting stations in the Philippines for a period of 25 years.

Respondent National Telecommunications Commission (NTC) is the government agency that exercises jurisdiction over the supervision, adjudication and control of all telecommunications and broadcast services in the country.

Following the enactment of R.A. No. 7252 and pursuant to Section 3 thereof, GMA filed before the NTC three (3) applications for Certificate of Public Convenience respectively docketed and entitled as follows:

- BMC Case No. 91-336 : "In Re: Application for Certificate of Public Convenience to Install, Operate and Maintain a VHF-TV Station in Dumaguete City."
- NTC Case No. 96-038 : "In Re: Application for a Certificate of Public Convenience to Install, Operate and Maintain DXLA-TV Station in Zamboanga City."

- BMC Case No. 96-499 : "Re: CPC for a 10KW Radio Station in Zamboanga City."

Pending the resolution of these applications, NTC granted GMA three Provisional Authorities ([PA]) to install, operate and maintain DXRC-AM broadcasting station and DXLA-TV Station both in Zamboanga City and a VHF-TV station in Dumaguete City. The said [PAs] were issued on and valid until the following dates:

	<i>Date issued</i>	<i>Valid Until</i>
VHF-TV	September 16, 1996	November 16, 1998
DXRC-AM	December 9, 1996	June 9, 1998
DXLA-TV	January 27, 1997	July 27, 1998

Upon the lapse of their respective expiration dates, the [PAs] were not renewed and it took 4-5 years before GMA was able to file Ex-Parte Motions for Renewal of Provisional Authority - on September 29, 2003 for VHF-TV in BMC Case No. 91-336 and on September 3, 2003 for DXLA-TV in NTC Case No. 96-038. For its DXRC-AM broadcasting station, it filed an Ex-Parte Motion for the Issuance of a Certificate of Public Convenience (CPC) in BMC Case No. 93-499 on September 13, 2002[.]

Before acting on the motions in BMC Case No. 91-336 and NTC Case No. 96-038, the NTC scheduled the cases for clarificatory hearing and directed GMA to explain why it should not be administratively sanctioned for late filing and/or for operating with an expired [PA] No similar action was taken in BMC Case No. 93-499.

GMA filed two separate pleadings entitled *Compliance* containing substantially the same declarations in BMC Case No. 91-336 and NTC Case No. 96-038. GMA explained that its failure to renew the [PAs] on time was not done with deliberate intent but due to pure inadvertence in the maintenance of its records and confusion in the turn-over of documents from its previous handling lawyers. The delay was also allegedly caused by the economic crisis that hit the Philippines in 1998 and the consequent downturn in the broadcast industry which adversely affected GMA's expansion plans and existing projects. GMA also alleged that it can no longer be sanctioned for the late filing of the Motions because its violation already prescribed pursuant to Sec. 28, Chapter IV of Commonwealth Act No. 146 (C.A. No. 146) or the Public Service Act.

In an Order dated May 25, 2009 in NTC Case No. 96-038, NTC issued a Certificate of Public Convenience (CPC) for the operation of GMA's DXLA-TV Station in Zamboanga City. With respect to BMC Case Nos. 93-499 and 91-336, NTC issued Orders dated January 11, 2007 and February 26, 2009 respectively renewing GMA's [PA] to install, operate and maintain DXRC-AM broadcasting station in Zamboanga City and VHF-TV Station in Dumaguete City.

The three Orders also fined GMA for operating with an expired [PA] at the rate of Php 200 per day of violation for DXRC-AM and P100 per day of violation for VHF-TV and DXLA-TV computed from the date of expiration of [PA] until the date of filing of the Motions for Renewal of Provisional Authority/Issuance of CPC. The aggregate amount of the fine imposed for the three stations was Php 674,600.00 broken down as follows:

DXRC-AM Broadcasting Station, Zamboanga City:

06-09-98 (Date of expiration of [PA])

09-13-02 (Date when the Ex-Parte Motion for Issuance of Certificate of Public Convenience was filed.)

Computation:

06-09-98 to 12-31-98 (205 days	=	Php 41,000.00
x Php 200.00)		
01-01-99 to 12-31-99 (365 days	=	Php 73,000.00
x Php 200.00)		
01-01-00 to 12-31-00 (365 days	=	Php 73,000.00
x Php 200.00)		
01-01-[01] to 12-31-01 (365 days	=	Php 73,000.00
x Php 200.00)		
01-01-02 to 09-13-02 (257 days	=	<u>Php 51,400.00</u>
x Php 200.00)		
		Php 311,400.00

VHF-TV Station, Dumaguete City:

11-16-1998 (Date of Expiration of [PA])

09-29-2003 (Date when the Motion for Renewal of Provisional Authority and/or Certificate of Public Convenience was filed)

Computation:

DUE DATE	DATE SUBMITTED	NO. OF DAYS OF DELAY	FINE PER DAY	TOTAL (T) (T = D x F)
Nov. 17, 1998	September 29, 2003	1,770	P100	Php 177,000.00

DXLA-TV Station, Zamboanga City:

July 27, 1998 (Date of Expiration of [PA])

Sept. 3, 2003 (Date when the Motion was filed)

Computation:

7/27/98 to 9/2/2003 = 1,862 days x P100.00 = **P186,200.00**

GMA moved for the partial reconsideration of the three Orders praying that the fine be lifted on the ground that GMA's violation already prescribed pursuant to Section 28 of C.A. No. 141 which states that violations of the terms and conditions of any certificate issued by the NTC shall prescribe after sixty (60) days. GMA also argued that the amount of fine imposed was [exorbitant] and contrary to Chapter IV of C.A. No. 141 which states that fines imposed against any public service corporation must not exceed the amount of P25,000.00. Finally, GMA maintained that although it operated with expired [PAs], it was granted the following temporary permits by the NTC during the period that the [PAs] for the subject stations were not renewed, viz:

For DXRC-AM Broadcasting Station, Zamboanga City:

Permit No.	Date issued	Period
BSD-0427-97 (NEW)	February 11, 1997	January 27, 1997 to January 29, 2000
BSD-0092-2000 (REN)	January 24, 2000	January 27, 2000 to January 29, 2003
BSD-0330-2003 (REN)	November 17, 2004	January 27, 2003 to January 26, 2006
BSD-0046-2006 (REN)	January 23, 2006	January 27, 2006 to January 26, 2009
BSD-0263-2009 (REN/MOD)	April 30, 2009	January 27, 2009 to January 26, 2012

For VHF-TV Station, Dumaguete City:

Permit No.	Date issued	Period
BSD-0388-96 (REN)	August 7, 1996	September 28, 1996 to September 27, 1999
BSD-0855-97 (MOD)	September 5, 1997	September 28, 1996 to September 27, 1999
BSD-0162-99 (REN)	September 21, 1999	September 28, 1999 to September 27, 2002
BSD-0236-2002	August 6, 2002	September 28, 2002 to September 27, 2005
BSD-0268-2005 (REN)	August 30, 2005	September 28, 2005 to September 27, 2008
BSD-0252-2008	August 27, 2008	September 28, 2008 to September 27, 2011

For DXLA-TV Station, Zamboanga City:

Permit	Date issued	Period
BSD-0835-97 (MOD)	September 5, 1997	January 1, 1997 to December 31, 1999
BSD-0167-99 (REN)	September 21, 1999	January 1, 2000 to December 31, 2002
BSD-0032-2003 (REN/MOD)	May 14, 2004	January 1, 2003 to December 31, 2005
BSD-0343-2005 (REN)	November 23, 2005	January 1, 2006 to December 31, 2008
BSD-0090-2009 (REN)	January 28, 2009	January 1, 2009 to December 31, 2011

The NTC partly granted GMA's motions for partial reconsideration by reducing the rate of the fine to Php 50 per day of violation for each of the three stations. In BMC Case No. 93-499, the NTC Order was dated August 4, 2009. In BMC Case No. 91-336, the NTC Order was dated July 17, 2009. In NTC Case No. 96-038, the Order was dated August 4, 2009. The total reduced fine for all the stations was Php 259,450.00, viz:

DXRC-AM Broadcasting Station, Zamboanga City:

DUE DATE	DATE SUBMITTED	NO. OF DAYS OF DELAY	FINE PER DAY	TOTAL (T) (T=DXF)
June 9, 1998	Sept. 13, 2002	1557	P50	Php 77,850.00

VHF-TV Station, Dumaguete City:

DUE DATE	DATE SUBMITTED	NO. OF DAYS OF DELAY	FINE PER DAY	TOTAL (T) (T=DXF)
November 17, 1998	Sept. 29, 2003	1,770	P50	Php 88,500.00

DXLA-TV Station, Zamboanga City:

DUE DATE	DATE SUBMITTED	NO. OF DAYS OF DELAY	FINE PER DAY	TOTAL (T) (T=DXF)
July 27, 1998	Sept. 2, 2003	1862	P50	Php 93,100.00

Dissatisfied, GMA interposed the herein consolidated Petitions for Review respectively docketed as *C.A. G.R. SP. No. 110148* assailing NTC Orders