

FIRST DIVISION

[G.R. NO. 148579, February 05, 2007]

GMA NETWORK, INC., PETITIONER, VS. MOVIE AND TELEVISION REVIEW AND CLASSIFICATION BOARD, RESPONDENT.

DECISION

CORONA, J.:

Subject of this petition for review under Rule 45 of the Rules of Court is the June 18, 2001 decision^[1] of the Court of Appeals (CA) affirming the January 7, 2000 order^[2] of respondent Movie and Television Review and Classification Board (MTRCB) which read:

In view thereof, the BOARD, by the undersigned, hereby imposes the administrative penalty of SUSPENSION FROM AIRING/BROADCASTING any program on EMC Channel 27 for a period of seven (7) days which period shall commence immediately upon receipt of this Order. Your failure to comply with this ORDER shall be construed by the BOARD as defiance on your part of a lawful order of the BOARD.

The facts follow.

Petitioner GMA Network, Inc. operates and manages the UHF television station, EMC Channel 27. On January 7, 2000, respondent MTRCB issued an order of suspension against petitioner for airing "Muro Ami: The Making" without first securing a permit from it as provided in Section 7 of PD 1986.^[3]

The penalty of suspension was based on Memorandum Circular 98-17 dated December 15, 1998^[4] which provided for the penalties for exhibiting a program without a valid permit from the MTRCB.

Petitioner moved for reconsideration of the suspension order and, at the same time, informed MTRCB that Channel 27 had complied with the suspension order by going off the air since midnight of January 11, 2000. It also filed a letter-protest which was merely "noted" by the MTRCB thereby, in effect, denying both the motion for reconsideration and letter-protest.

Petitioner then filed with the CA a petition for certiorari which was dismissed in the now assailed June 18, 2001 decision. The January 7, 2000 suspension order issued by MTRCB was affirmed *in toto*.

Hence, this recourse.

The pivotal issues for our resolution are:

(1) whether the MTRCB has the power or authority to review the show "Muro Ami: The Making" prior to its broadcast by television and

(2) whether Memorandum Circular No. 98-17 was enforceable and binding on petitioner.

First, Section 3 of PD 1986^[5] empowers the MTRCB to screen, review and examine *all* motion pictures, television programs including publicity materials. This power of prior review is highlighted in its Rules and Regulations, particularly Section 7 thereof, which reads:

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 broadcasted by television without prior permit issued by the BOARD after review of the motion picture, television program or publicity material.

The *only* exemptions from the MTRCB's power of review are those expressly mentioned in Section 7,^[6] such as (1) television programs imprinted or exhibited by the Philippine Government and/or departments and agencies, and (2) newsreels.

According to the CA, the subject program was a publicity for the movie, "Muro Ami." In adopting this finding, we hold that "Muro Ami: The Making," did not fall under any of the exemptions and was therefore within the power of review of MTRCB.

On the other hand, petitioner claims that "Muro Ami: The Making" was a *public affairs* program.^[7] Even if that were so, our resolution of this issue would not change. This Court has already ruled that a public affairs program -- described as a variety of news treatment; a cross between pure television news and news-related commentaries, analysis and/or exchange of opinions -- is within the MTRCB's power of review.^[8] Clearly, "Muro Ami: The Making" (which petitioner claims to be a public affairs program) was well within the purview of MTRCB's power of prior review.

However, while MTRCB had jurisdiction over the subject program, Memorandum Circular 98-17, which was the basis of the suspension order, was not binding on petitioner. The Administrative Code of 1987, particularly Section 3 thereof, expressly requires each agency to file with the Office of the National Administrative Register (ONAR) of the University of the Philippines Law Center three certified copies of every rule adopted by it. Administrative issuances which are not published or filed with the ONAR are ineffective and may not be enforced.^[9]

Memorandum Circular No. 98-17, which provides for the penalties for the first, second and third offenses for exhibiting programs without valid permit to exhibit, has not been registered with the ONAR as of January 27, 2000.^[10] Hence, the same is yet to be effective.^[11] It is thus unenforceable since it has not been filed in the ONAR.^[12] Consequently, petitioner was not bound by said circular and should not have been meted the sanction provided thereunder.

WHEREFORE, the instant petition is **PARTIALLY GRANTED**. The decision of the Court of Appeals dated June 18, 2001, insofar as it affirmed the public respondent Movie and Television Review and Classification Board's jurisdiction over "Muro Ami: