

## SECOND DIVISION

[ G.R. No. 161422, December 13, 2007 ]

**FEDERICO "TOTO" NATIVIDAD, PETITIONER, VS. MOVIE AND TELEVISION REVIEW AND CLASSIFICATION BOARD (MTRCB), REPRESENTED BY ITS CHAIRPERSON MA. CONSOLIZA T. LAGUARDIA; SPOUSES THELMA J. CHIONG AND DIONISIO F. CHIONG; AND MARICHU S. JIMENEA, RESPONDENTS.**

### D E C I S I O N

**VELASCO JR., J.:**

#### The Case

In this Petition for Review on Certiorari under Rule 45, petitioner Federico "Toto" Natividad seeks the reversal of the December 22, 2003 Decision<sup>[1]</sup> of the Court of Appeals (CA). The CA denied petitioner's Special Civil Action for Certiorari and Mandamus with application for a writ of preliminary injunction against the Movie and Television Review and Classification Board (MTRCB) in connection with MTRCB Administrative Case No. 25-99.

#### The Facts

At the center of this petition is the movie *Butakal* (*Sugapa Sa Laman*). The movie is allegedly based on the true story of two sisters, Jacqueline and Marijoy Chiong of Cebu. The sisters were kidnapped, raped and killed on July 16, 1997. Jacqueline's body was found in a hurriedly-dug grave, while Marijoy's body was never found. The eight accused, some scions of prominent Cebu families, have been convicted by the Cebu City Regional Trial Court (RTC), save for one, who turned state witness. The seven convicted were each sentenced to two counts of *reclusion perpetua*. On automatic appeal to this Court, the penalties imposed by the trial court were affirmed with modifications in a Decision dated February 3, 2004.<sup>[2]</sup> The subsequent motions for reconsideration filed by the accused were denied in this Court's Resolution dated July 21, 2005.<sup>[3]</sup>

On August 25, 1999, while the appeal of the accused was pending in this Court, Natividad, a movie producer and director, for and on behalf of the movie outfit Venus Films, filed with the MTRCB an application for a permit to exhibit *Butakal*, the movie apparently based on the Chiong rapes.

The MTRCB gave the movie an R-Strictly for Adults rating and issued its permit on August 27, 1999. The movie was advertised in the major dailies and scheduled for public viewing starting September 8, 1999 in several movie houses in Metro Manila and in Cebu City.

On September 1, 1999, private respondents, the spouses Dionisio and Thelma

Chiong, and Thelma's sister, Marichu Jimenea (Chionsgs), convinced that the movie was a depiction of the sisters' plight, wrote MTRCB requesting the board to disapprove the showing of the film. They objected to what they had been informed were brutal and lewd depictions of the rape. They claimed that the misrepresentations were aggravated by the purely commercial motive of the producers. The Chionsgs also said that the case upon which *Butakal* was based was still pending before the Court and the showing of the film was *sub judice*.

Immediately, then MTRCB Chairperson Armida P.E. Siguion-Reyna asked Natividad to submit *Butakal* to a special screening in the presence of the Chionsgs. Natividad readily agreed, and the special screening was held.

Thereafter, Siguion-Reyna informed the Chionsgs that the MTRCB stood by its previous approval of the movie and only a restraining order from the proper court would stop its public exhibition starting September 8, 1999.

On September 6, 1999, the Chionsgs filed with the RTC a petition for injunction with damages with prayer for the issuance of a temporary restraining order (TRO) docketed as Civil Case No. Q-99-38647 against Natividad and the MTRCB. The Chionsgs alleged that the showing of the film would inflict "grave injustice and irreparable injury to the petitioners and the victims in Crim. Cases Nos. [CBU-]45303 and 45304." The case was raffled to Branch 223.

The RTC ruled in favor of private respondents. It made permanent the writ of preliminary injunction and/or TRO and ordered the MTRCB to cancel the permit "to show *Butakal* on television or any theater in the Philippines and abroad, said movie being illegal, indecently immoral and against public policy and order."

On September 7, 1999, the RTC *ex-parte* issued a TRO enjoining Natividad from exhibiting the movie for 72 hours and set for summary hearing the extended duration of the TRO. After three days, the trial court issued another order extending the life of the TRO to its full duration of 20 days.

On September 12, 1999, Natividad filed an Omnibus Motion praying for the dismissal of the main petition and the lifting of the TRO. Natividad cited as grounds the alleged failure of the Chionsgs to exhaust available administrative remedies, the lack of jurisdiction of the court over the subject matter of the petition, and the failure of the petition itself to state a cause of action.

The Chionsgs filed an opposition to the omnibus motion. The MTRCB, for its part, filed a Manifestation/Motion alleging that it merely fulfilled its mandate under Presidential Decree No. (PD) 1986 when it issued Natividad's permit. Eventually, in an Order dated September 21, 1999, the RTC denied Natividad's Omnibus Motion and the same order set the hearing of the Chionsgs' application for preliminary injunction to September 22, 23, and 24, 1999.<sup>[4]</sup>

*Butakal* was previewed by the RTC during the hearing on September 23, 1999. After the screening, the Chionsgs asked the trial court to direct the seizure of the VHS master copy of the movie for safekeeping by the MTRCB. This oral motion was denied outright by the trial court.

Because the TRO would expire on September 27, 1999 without the court resolving

their urgent application for preliminary injunction, the Chiongs filed a very urgent motion to resolve the pending incident even though they were fully aware that Natividad had not yet concluded his presentation of evidence. The court denied the urgent motion.

In the afternoon of September 27, 1999, Natividad received a letter from the MTRCB informing him that the Office of the President (OP) had directed the MTRCB Chairperson to designate a Committee of Board Members to undertake a second review and to determine if there was a basis for allegations that the film contains scenes that were libelous or defamatory to the good name and reputation of the Chiong sisters and surviving relatives, and if after review, the Board, in its judgment, shall find basis for the complaint, to impose such penalties/sanctions in accordance with the provisions of PD 1986.<sup>[5]</sup>

The Board recalled the Permit to Exhibit and directed Natividad to submit a second review.

Taken aback by the MTRCB's inordinately swift recall of the permit to exhibit, even while the matter of the preliminary injunction in Civil Case No. Q-99-38647 remained unresolved, Natividad inquired why there was a recall and discovered that on September 10, 1999, Thelma Chiong and her relatives met with the President and requested another review, resulting in the recall of the permit and the directive to the MTRCB to undertake another review. Natividad posthaste filed a supplemental motion to dismiss Civil Case No. Q-99-38647 alleging that when the Chiongs asked the OP to intervene despite the pendency of the court case, they committed forum shopping. Thus, he alleged that Civil Case No. Q-99-38647 should be dismissed.

Also, in response to the MTRCB's letter, Natividad filed a manifestation with the MTRCB informing the board that he was not inclined to submit his film for a second review because the decision of the first review committee was final. He added that if he did, this might be misunderstood as submitting himself to the jurisdiction of the MTRCB on the issues brought by the Chiongs before the OP. His refusal constrained the MTRCB Chairperson to write Natividad to ask him to explain in writing why no sanctions should be imposed against him. Natividad complied.

While Civil Case No. Q-99-38647 was pending resolution by the RTC, the Chiongs subsequently filed two separate pleadings: (1) an Amended Petition where they deleted the MTRCB as a respondent and instead impleaded new respondents, Kenjie Watanabe, Alvin Basilio, and Willie Laconsay, and withdrew their prayer for preliminary injunction; and (2) a petition to inhibit the judge for alleged bias in favor of Natividad.

In an Order dated October 7, 1999, the RTC dismissed Civil Case No. Q-99-38647 on the ground of forum shopping. The RTC explained that despite knowledge of the complaint initiated in the OP and notwithstanding the undertaking contained in the Certificate of Non-Forum Shopping, the trial court was not fairly informed of the action initiated before the same agency. It was only through respondent-movant's Urgent Omnibus Motion that the trial court was apprised of this development and this was on the seventeenth day after the issuance of the Memorandum from the OP, contrary to Rule 7, Section 5 of the 1997 Rules of Civil Procedure.

The Chiongs moved for reconsideration but their motion was denied.

Simultaneous with the filing of their motion for reconsideration in Civil Case No. Q-99-38647, the Chiongs filed with the MTRCB a Complaint docketed as MTRCB Administrative Case No. 25-99 against Natividad, Watanabe, Basilio, and Laconsay, asking the MTRCB to prohibit the exhibition of *Butakal* or any portion of the film in all forms or venues in the Philippines and abroad. The Chiongs also asked that all copies of the movie be surrendered to the MTRCB and destroyed.<sup>[6]</sup>

Natividad, et al. in their Answer interposed that (1) the MTRCB had no jurisdiction to hear and decide the controversy; (2) the complainants committed forum shopping; (3) the earlier decision of the MTRCB granting a permit to exhibit *Butakal* had become final and executory; and (4) the recall order of the permit violated their right to due process.<sup>[7]</sup>

On March 20, 2000, the MTRCB denied due course to the Chiongs' complaint because it violated the *sub judice* rule. However, the MTRCB affirmed its earlier order of September 27, 1999 for the recall of its permit since the Hearing and Adjudication Committee the MTRCB had created had taken notice of two criminal cases, docketed as Criminal Case Nos. CBU-45303 and 45304 both entitled *People of the Philippines v. Francisco Juan Larrañaga @ "Paco," et al.* The RTC, Branch 7 tried on the merits and decided the criminal cases, which were on appeal before the Court.

After the surrender of the master copy of *Butakal*, Natividad later requested that the MTRCB release the master copy. The MTRCB refused explaining that the video tape of *Butakal* had to remain with the MTRCB until and after the administrative case filed by the Chiongs is terminated because the video tape was material evidence in the administrative case.

Aggrieved, on May 12, 2000, Natividad filed a special civil action for certiorari and mandamus under Rule 65 of the Rules of Court with the CA.

The petition was denied by the CA in a decision promulgated on December 22, 2003. In denying the petition, the CA found that (1) the orders issued by the MTRCB in Administrative Case No. 25-99 were merely interlocutory and generally may not be the subject of a petition for certiorari; (2) no grave abuse of discretion was committed by the MTRCB, because it merely deferred proceedings conformably with the *sub judice* rule; (3) the MTRCB had primary jurisdiction, a fact already affirmed by the trial court in Civil Case No. Q-99-38647; and (4) the MTRCB was only complying with its mandate under PD 1986, as amended, as well as its Implementing Rules and Regulations.

According to the CA, the MTRCB orders denying Chiongs' complaint, while simultaneously withholding the permit to exhibit *Butakal*, were merely interlocutory because the main case where the subject orders were issued, Administrative Case No. 25-99, was not resolved. Being interlocutory, said orders may not be the subject of a special civil action for certiorari. The CA cited *Emergency Loan Pawnshop Inc., et al. v. Court of Appeals, et al.*,<sup>[8]</sup> and explained that the remedy of the aggrieved party is to file an answer to the complaint and to interpose as defenses the objections raised in his motion to dismiss, proceed to trial, and in case

of an adverse decision, to elevate the entire case by appeal.

The CA elucidated further that the rule admits of exceptions, namely: (1) when the impugned orders were issued without or in excess of jurisdiction; (2) where there is patent grave abuse of discretion; or (3) appeal would not prove to be a speedy and adequate remedy as when an appeal would not relieve the defendant from the injurious effects of the patently mistaken order maintaining the plaintiffs' baseless action and compelling the defendant needlessly to go through a protracted trial and clogging the court dockets by another futile case. The CA opined that in this case, Natividad failed to show that this case fell under any of the aforementioned exceptions.

Regarding the allegation of grave abuse of discretion on the part of the MTRCB, the CA ruled that there was no such grave abuse when the MTRCB deferred the resolution of Administrative Case No. 25-99, because it found that there were at that time criminal cases involving the rape of the Chiong sisters pending in the Court, and the decision on these cases would materially affect any resolution by the MTRCB in Administrative Case No. 25-99.

As to the alleged lack of jurisdiction of the MTRCB to entertain Administrative Case No. 25-99, the CA said that PD 1986, as amended, categorically conferred jurisdiction on the MTRCB to act on cases such as Administrative Case No. 25-99. The pertinent provisions state:

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

x x x x

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 crime, such as but not limited to:

x x x x

vi) Those which are libelous or defamatory to the good name and reputation of any person, whether living or dead; and

vii) Those which may constitute contempt of court or of any quasi-judicial tribunal, or pertain to matters which are sub-judice in nature

Unsatisfied, Natividad filed this petition before us.

### **The Issues**