



Republic of the Philippines  
**Supreme Court**  
Manila

**SECOND DIVISION**

**GMA NETWORK, INC.,**  
Petitioner,

**G.R. No. 176694**

Present:

- versus -

CARPIO, *J.*, Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
LEONEN, \* *JJ.*

Promulgated:

**CENTRAL CATV, INC.,**  
Respondent.

JUL 18 2014 *Alfonso C. Caguioa*

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**DECISION**

**BRION, J.:**

We resolve the challenge, under the standards of a Rule 45 petition for review, to the decision<sup>1</sup> dated November 14, 2006 and the resolution<sup>2</sup> dated February 15, 2007 of the Court of Appeals (CA) in CA-G.R. SP No. 93439 affirming the order<sup>3</sup> dated December 10, 2004 of the National Telecommunications Commission (NTC)<sup>4</sup> that dismissed the complaint of petitioner GMA Network, Inc. based on the motion to dismiss by way of demurrer to evidence of respondent Central CATV, Inc.

\* Designated as Additional Member in lieu of Associate Justice Estela M. Perlas-Bernabe per Raffle dated March 10, 2014.

<sup>1</sup> Penned by Associate Justice Renato C. Dacudao, and concurred in by Associate Justices Rosmari D. Carandang and Estela M. Perlas-Bernabe (now a member of this Court); id. at 13-24.

<sup>2</sup> Id. at 26.

<sup>3</sup> Id. at 263-279.

<sup>4</sup> In Adm. Case No. 2000-019.

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### **THE FACTUAL ANTECEDENTS**

Sometime in February 2000, the petitioner, together with the Kapisanan ng mga Brodkaster ng Pilipinas, Audiovisual Communicators, Incorporated, Filipinas Broadcasting Network and Rajah Broadcasting Network, Inc. (*complainants*), filed with the NTC a complaint against the respondent to stop it from soliciting and showing advertisements in its cable television (CATV) system, pursuant to **Section 2 of Executive Order (EO) No. 205**.<sup>5</sup> Under this provision, a grantee's authority to operate a CATV system shall not infringe on the television and broadcast markets. The petitioner alleged that the phrase "television and broadcast markets" includes the commercial or advertising market.

In its answer, the respondent admitted the airing of commercial advertisement on its CATV network but alleged that Section 3 of EO No. 436, which was issued by former President Fidel V. Ramos on September 9, 1997, expressly allowed CATV providers to carry advertisements and other similar paid segments provided there is consent from their program providers.<sup>6</sup>

After the petitioner presented and offered its evidence, the respondent filed a motion to dismiss by demurrer to evidence claiming that the evidence presented by the complainants failed to show how the respondent's acts of soliciting and/or showing advertisements infringed upon the television and broadcast market.<sup>7</sup>

### **THE NTC RULING**

The NTC granted the respondent's demurrer to evidence and dismissed the complaint. It ruled that since EO No. 205 does not define "infringement," EO No. 436 merely clarified or filled-in the details of the term to mean that the CATV operators may show advertisements, provided that they secure the consent of their program providers. In the present case, the documents attached to the respondent's demurrer to evidence showed that its program providers have given such consent. Although the respondent did not formally offer these documents as evidence, the NTC could still consider them since they formed part of the records and the NTC is not bound by the strict application of technical rules.<sup>8</sup>

The NTC added that since the insertion of advertisements under EO No. 436 would result in the alteration or deletion of the broadcast signals of the consenting television broadcast station, its ruling necessarily results in

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<sup>5</sup> *Rollo*, pp. 14-15.

<sup>6</sup> *Id.* at 14.

<sup>7</sup> *Id.* at 15.

<sup>8</sup> *Id.* at 15, 21.

the amendment of these provisions. The second paragraph<sup>9</sup> of Section 3 of EO No. 436 is deemed to amend the previous provisional authority issued to the respondent, as well as Sections 6.2.1 and 6.4 of the NTC's Memorandum Circular (MC) 4-08-88. Sections 6.2.1 and 6.4 require the CATV operators within the Grade A or B contours of a television broadcast station to carry the latter's television broadcast signals **in full**, without alteration or deletion. **This is known as the “must-carry-rule.”**<sup>10</sup>

With the denial of its motion for reconsideration,<sup>11</sup> the petitioner went to the CA, alleging that the NTC committed grave procedural and substantive errors in dismissing the complaint.

### **THE CA RULING**

The CA upheld the NTC ruling. The NTC did not err in considering the respondent's pieces of evidence that were attached to its demurrer to evidence since administrative agencies are not bound by the technical rules of procedure.<sup>12</sup>

Due to the failure of EO No. 205 to define what constitutes “infringement,” EO No. 436 merely filled-in the details without expanding, modifying and/or repealing EO No. 205.<sup>13</sup> The NTC was also correct in modifying or amending the must-carry rule under MC 4-08-88 as the NTC merely implemented the directive of EO No. 436.<sup>14</sup>

Hence, this present petition for review on *certiorari*.

### **THE PARTIES' ARGUMENTS**

On the procedural issues, the petitioner argues that the NTC erred in: (i) granting the demurrer to evidence based only on the insufficiency of the complaint and not on the insufficiency of evidence; and (ii) considering the evidence of the respondent in its demurrer to evidence on top of the petitioner's evidence.<sup>15</sup>

On the substantive issue, the petitioner alleges that the NTC gravely erred in failing to differentiate between EO No. 205, which is a law, and EO No. 436 which is merely an executive issuance. An executive issuance

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<sup>9</sup> Cable television service may carry advertisements and other similar paid segments for which the cable television operator may charge and collect reasonable fees; Provided, that no cable television operator shall infringe on broadcast television markets by inserting advertisements in the programs it carries or retransmits without the consent of the program provider concerned.

<sup>10</sup> *Rollo*, p. 277.

<sup>11</sup> *Id.* at 329.

<sup>12</sup> *Id.* at 19.

<sup>13</sup> *Id.* at 20-21.

<sup>14</sup> *Id.* at 23.

<sup>15</sup> *Id.* at 47-49, 52-53.

cannot make a qualification on the clear prohibition in the law, EO No. 205.<sup>16</sup> In allowing infringement under certain conditions, EO No. 436 overturned EO No. 205 which prohibits, without qualification, the infringement on the markets of free TV networks, such as the petitioner. In doing so, the Executive arrogated upon itself the power of subordinate legislation that Congress has explicitly reserved to the NTC.<sup>17</sup>

Too, in granting the demurrer to evidence, the NTC effectively revised EO No. 205, contrary to the basic rule that in the exercise of quasi-legislative power, the delegate cannot supplant and modify its enabling statute.<sup>18</sup>

On the other hand, the respondent agrees with the CA that the NTC properly considered the certifications attached to the respondent's demurrer to evidence<sup>19</sup> since the petitioner had the chance to peruse these certifications in the course of the presentation of its evidence.

EO No. 205 does not expressly prohibit CATV operators from soliciting and showing advertisements. The non-infringement limitation under Section 2 thereof, although couched in general terms, should not be interpreted in such a way as to deprive CATV operators of legitimate business opportunities.<sup>20</sup> Also, EO No. 436, being an executive issuance and a valid administrative legislation, has the force and effect of a law and cannot be subject to collateral attack.<sup>21</sup>

### **THE ISSUES**

- 1) Whether the CA erred in affirming the order of the NTC which granted the respondent's motion to dismiss by demurrer to evidence.
- 2) Whether the respondent is prohibited from showing advertisements under Section 2 of EO No. 205, in relation to paragraph 2, Section 3 of EO No. 436.

### **THE COURT'S RULING**

We deny the petition for lack of merit.

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<sup>16</sup> Id. at 68-69, 72.

<sup>17</sup> Id. at 73-75, 78, 80.

<sup>18</sup> Id. at 61-62, 82.

<sup>19</sup> Id. at 466.

<sup>20</sup> Id. at 478-479.

<sup>21</sup> Id. at 481.

### ***Procedural Issues***

The remedy of a demurrer to evidence is applicable in the proceedings before the NTC, pursuant to Section 1, Rule 9, Part 9 of its Rules of Practice and Procedure which provides for the suppletory application of the Rules of Court.

Rule 33<sup>22</sup> of the Rules of Court provides for the rule on demurrer to evidence:

**Section 1. Demurrer to evidence.** — After the plaintiff has completed the presentation of his evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. If his motion is denied he shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed he shall be deemed to have waived the right to present evidence.

In other words, the issue to be resolved in a motion to dismiss based on a demurrer to evidence is whether the plaintiff is entitled to the relief prayed for **based on the facts and the law**.<sup>23</sup> In *Casent Realty Development Corp. v. Philbanking Corp.*,<sup>24</sup> the Court explained that these facts and law do not include the defendant's evidence:

What should be resolved in a motion to dismiss based on a demurrer to evidence is whether the plaintiff is entitled to the relief **based on the facts and the law**. The evidence contemplated by the rule on demurrer is that which pertains to the merits of the case, excluding technical aspects such as capacity to sue. However, the plaintiff's evidence should not be the only basis in resolving a demurrer to evidence. **The "facts" referred to** in Section 8 should include all the means sanctioned by the Rules of Court in ascertaining matters in judicial proceedings. These include judicial admissions, matters of judicial notice, stipulations made during the pre-trial and trial, admissions, and presumptions, **the only exclusion being the defendant's evidence**.

In granting the demurrer to evidence in the present case, the NTC considered both the insufficiency of the allegations in the complaint and the insufficiency of the complainants' evidence in light of its interpretation of the provisions of EO No. 205 and EO No. 436. The NTC ruled that the complainants, including the petitioner, failed to prove by substantial evidence that the respondent aired the subject advertisements without the consent of its program providers, as required under EO No. 436. The NTC, therefore, has issued the assailed order upon a consideration of the applicable laws and the evidence of the petitioner. On this score, the grant of the demurrer suffers no infirmity.

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<sup>22</sup> This was copied in substance from Section 1, Rule 35 of the 1964 Rules of Court.

<sup>23</sup> *Casent Realty Development Corp. v. Philbanking Corp.*, 559 Phil. 793, 801 (2007).

<sup>24</sup> Id. at 801-802; emphases ours, citation omitted.

However, the NTC further extended its consideration of the issue to the respondent's pieces of evidence that were attached to its demurrer to evidence. On this score, we agree with the petitioner that the NTC erred.

Rule 33 of the Rules of Court, as explained in our ruling in *Casent*, proscribes the court or the tribunal from considering the defendant's evidence in the resolution of a motion to dismiss based on a demurrer to evidence.

While an administrative agency is not strictly bound by technical rules of procedure in the conduct of its administrative proceedings, the relaxation of the rules should not result in violating fundamental evidentiary rules, including due process.<sup>25</sup> In the present case, the NTC proceeded against the very nature of the remedy of demurrer to evidence when it considered the respondent's evidence, specifically the certifications attached to the respondent's demurrer to evidence. Despite the petitioner's objections,<sup>26</sup> the NTC disregarded the rule on demurrer by allowing the submission of the respondent's evidence while depriving the petitioner of the opportunity to question, examine or refute the submitted documents.<sup>27</sup>

That the petitioner had the chance to peruse these documents is of no moment. In a demurrer to evidence, the respondent's evidence should not have been considered in the first place. As the NTC opted to consider the respondent's evidence, it should not have resolved the case through the remedy of demurrer but instead allowed the respondent to formally present its evidence where the petitioner could properly raise its objections. Clearly, there was a violation of the petitioner's due process right.

### ***Substantive Issues***

The primary issue in the present case is whether the respondent, as a CATV operator, could show commercial advertisements in its CATV networks. The petitioner anchors its claim on Section 2<sup>28</sup> of EO No. 205 while the respondent supports its defense from paragraph 2, Section 3<sup>29</sup> of EO No. 436. The Court finds, however, that both the NTC and the CA

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<sup>25</sup> *E.Y. Industrial Sales, Inc. v. Shen Dar Electricity and Machinery Co., Ltd.*, G.R. No. 184850, October 20, 2010, 634 SCRA 363, 379.

<sup>26</sup> *Rollo*, p. 236.

<sup>27</sup> *Id.* at 269-270.

<sup>28</sup> Sec. 2. A Certificate of Authority to operate Cable Antenna Television (CATV) system shall be granted by the Commission on a non-exclusive basis and for a period not to exceed fifteen (15) years, renewable for another similar period: Provided, That such certificate shall be subject to the limitation that the authority to operate shall not infringe on the television and broadcast markets.

<sup>29</sup> SECTION 3. Only persons, associations, partnerships, corporations or cooperatives granted a Provisional Authority or Certificate of Authority by the Commission may install, operate and maintain a cable television system or render cable television service within a service area.

Cable television service may carry advertisements and other similar paid segments for which the cable television operator may charge and collect reasonable fees; Provided, that no cable television operator shall infringe on broadcast television markets by inserting advertisements in the programs it carries or retransmits without the consent of the program provider concerned.

failed to correctly appreciate EO No. 205 and EO No. 436 in resolving the present case.

**1. EO No. 205 is a law while EO No. 436 is an executive issuance**

For one, we agree with the petitioner that the NTC and the CA proceeded from the wrong premise that both EO No. 205 and EO No. 436 are statutes. This is a critical point to consider since the NTC and the CA rulings on the merits would have no leg to stand on had they properly appreciated the nature of these two executive issuances.

EO No. 205 was issued by President Corazon Aquino on June 30, 1987. Under Section 6, Article 18 of the 1987 Constitution, the incumbent President shall continue to exercise legislative powers until the first Congress is convened. The Congress was convened only on July 27, 1987.<sup>30</sup> Therefore, at the time of the issuance of EO No. 205, President Aquino was still exercising legislative powers. In fact, the intent to regard EO No. 205 as a law is clear under Section 7 thereof which provides for the repeal or modification of all inconsistent **laws**, orders, issuances and rules and regulations, or parts thereof.

EO No. 436, on the other hand, is an executive order which was issued by President Ramos in the exercise purely of his executive power. In short, it is not a law.

The NTC and the CA, however, failed to consider the distinction between the two executive orders. In considering EO No. 436 as a law, the NTC and the CA hastily concluded that it has validly qualified Section 2 of EO No. 205 and has amended the provisions of MC 4-08-88. Following this wrong premise, the NTC and the CA ruled that the respondent has a right to show advertisements under Section 3 of EO No. 436.

The incorrect interpretation by the NTC and the CA led to the erroneous resolution of the petitioner's complaint and appeal. While the respondent indeed has the right to solicit and show advertisements, as will be discussed below, the NTC and the CA incorrectly interpreted and appreciated the relevant provisions of the law and rules. We seek to correct this error in the present case by ruling that MC 4-08-88 alone sufficiently resolves the issue on whether the respondent could show advertisements in its CATV networks. In other words, EO No. 436 is not material in resolving the substantive issue before us.

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<sup>30</sup> *Philippine Association of Service Exporters, Inc. v. Torres*, G.R. No. 98472, August 19, 1993, 225 SCRA 417, 420.

**2. The CATV operators are not prohibited from showing advertisements under EO No. 205 and its implementing rules and regulations, MC 4-08-88**

Section 6<sup>31</sup> of EO No. 205 expressly and unequivocally vests with the NTC the delegated legislative authority to issue its implementing rules and regulations.<sup>32</sup>

Following this authority, the NTC has issued the implementing rules and regulations of EO No. 205 through MC 4-08-88. Its *whereas* clause provides that it was issued pursuant to Act No. 3846<sup>33</sup> and EO No. 205 which granted the NTC the authority to set down rules and regulations on CATV systems.

MC 4-08-88 has sufficiently filled-in the details of Section 2 of EO No. 205, specifically the contentious *proviso* that “the authority to operate [CATV] shall not infringe on the television and broadcast markets.”

*First*, Section 6.1 of MC 04-08-88 clarifies what the phrase “television and broadcast **markets**” covers, when it identified the major television markets as follows:

SECTION 6 CARRIAGE OF TELEVISION  
BROADCAST SIGNALS

**6.1 Major Television Markets**

For purposes of the cable television rules, the following is a **list of the major television markets**:

- a. Naga
- b. Legaspi
- c. Metro Manila
- d. Metro Cebu
- e. Bacolod
- f. Iloilo
- g. Davao
- h. Cagayan de Oro

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<sup>31</sup> Sec. 6. The National Telecommunications Commission is hereby authorized to issue the necessary rules and regulations to implement this Executive Order.

<sup>32</sup> It is well-established that the grant of the rule-making power by the lawmaking body to administrative agencies is a relaxation of the principle of separation of powers and is an exception to the non-delegation of legislative powers (*Misamis Oriental Association of Coco Traders, Inc. v. Department of Finance Secretary*, G.R. No. 108524, November 10, 1994, 238 SCRA 63). This is an exercise of a quasi-legislative or rule-making power which is in the nature of subordinate legislation, designed to implement a primary legislation by providing its details through rules and regulations (*Commissioner of Customs v. Hypermix Feeds Corporation*, G.R. No. 179579, February 1, 2012, 664 SCRA 666).

<sup>33</sup> An Act Providing For The Regulation Of Radio Stations And Radio Communications In The Philippine Islands, And For Other Purposes.



i. Zamboanga<sup>34</sup>

It is clear from this provision that the phrase “television market” connotes “audience” or “viewers” in geographic areas and not the commercial or advertising market as what the petitioner claims.

*Second*, the kind of infringement prohibited by Section 2 of EO No. 205 was particularly clarified under Sections 6.2, 6.2.1, 6.4(a)(1) and 6.4(b) of MC 04-08-88, which embody the “must-carry rule.” This rule mandates that the local TV broadcast signals of an authorized TV broadcast station, such as the petitioner, should be carried **in full** by the CATV operator, without alteration or deletion. These sections provide as follows:

## 6.2 Mandatory Coverage

6.2.1 A cable TV system operating in a community which is within the Grade A or Grade B contours of an authorized TV broadcast station or stations must carry the TV signals of these stations.

## 6.4 Manner of Carriage

a. Where a television broadcast signal is required to be carried by a community unit, pursuant to the rules in this sub-part:

1. **The signal shall be carried without material degradation in quality** (within the limitations imposed by the technical state of the art), and where applicable, in accordance with the technical standards[.]

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b. Where a television broadcast signal is carried by a community unit, pursuant to the rules in the CATV standards **the program broadcast shall be carried in full, without deletion or alternation of any** except as required by this part.<sup>35</sup>

An understanding of the “must-carry rule” would show how it carries out the directive of Section 2 of EO No. 205 that the CATV operation must not infringe upon the broadcast television markets, specifically the **audience market**. In *ABS-CBN Broadcasting Corporation v. Philippine Multi-Media System, Inc.*,<sup>36</sup> the Court clarified the “must-carry rule” and its interplay in the free-signal TV, such as the petitioner, and the CATV operators, such as the respondent, and to quote:

<sup>34</sup> Emphases ours.

<sup>35</sup> Emphases ours.

<sup>36</sup> G.R. Nos. 175769-70, January 19, 2009, 576 SCRA 262, 284-285; emphases and underscore ours, citations omitted.

Anyone in the country who owns a television set and antenna can receive ABS-CBN's signals for free. Other broadcasting organizations with free-to-air signals such as GMA-7, RPN-9, ABC-5, and IBC-13 can likewise be accessed for free. **No payment is required to view the said channels because these broadcasting networks do not generate revenue from subscription from their viewers but from airtime revenue from contracts with commercial advertisers and producers, as well as from direct sales.**

**In contrast, cable and DTH television earn revenues from viewer subscription.** In the case of PMSI, it offers its customers premium paid channels from content providers like Star Movies, Star World, Jack TV, and AXN, among others, thus allowing its customers to go beyond the limits of "Free TV and Cable TV." It does not advertise itself as a local channel carrier because these local channels can be viewed with or without DTH television.

Relevantly, PMSI's carriage of Channels 2 and 23 is material in arriving at the ratings and audience share of ABS-CBN and its programs. **These ratings help commercial advertisers and producers decide whether to buy airtime from the network. Thus, the must-carry rule is actually advantageous to the broadcasting networks because it provides them with increased viewership which attracts commercial advertisers and producers.**

On the other hand, **the carriage of free-to-air signals imposes a burden to cable and DTH television providers** such as PMSI. **PMSI uses none of ABS-CBN's resources or equipment and carries the signals and shoulders the costs without any recourse of charging. Moreover, such carriage of signals takes up channel space which can otherwise be utilized for other premium paid channels.**

Contrary to the petitioner's claim, EO No. 205 was not issued solely for the benefit of the free-signal TV networks. In fact, it was issued to end the monopoly of *Sining Makulay, Inc.* which was granted by then President Ferdinand Marcos an exclusive franchise, through Presidential Decree (PD) No. 1512, to operate CATV system anywhere within the Philippines.<sup>37</sup> EO No. 205 encouraged the growth of CATV operation when it expressly repealed PD No. 1512<sup>38</sup> thus encouraging competition in the CATV industry. As stated in the whereas clause of EO No. 205, the primary purpose of the law in regulating the CATV operations was for the protection of the public and the promotion of the general welfare.

MC 4-08-88 mirrored the legislative intent of EO No. 205 and acknowledged the importance of the CATV operations in the promotion of the general welfare. The circular provides in its whereas clause that the

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<sup>37</sup> *Batangas CATV, Inc. v. Court of Appeals*, 482 Phil. 544, 557 (2004).

<sup>38</sup> Sec. 7. Presidential Decree No. 1512 dated June 11, 1978 and all laws, orders, issuances and rules and regulations or parts thereof inconsistent with this Executive Order are hereby repealed or modified accordingly.

CATV has the ability to offer additional programming and to carry much improved broadcast signals in the remote areas, thereby enriching the lives of the rest of the population through the dissemination of social, economic and educational information, and cultural programs.

Unavoidably, however, the improved broadcast signals that CATV offers may infringe or encroach upon the audience or viewer market of the free-signal TV. This is so because the latter's signal may not reach the remote areas or reach them with poor signal quality. To foreclose this possibility and protect the free-TV market (audience market), the must-carry rule was adopted to level the playing field. With the must-carry rule in place, the CATV networks are required to carry and show **in full** the free-local TV's programs, including advertisements, without alteration or deletion. This, in turn, benefits the public who would have a wide-range of choices of programs or broadcast to watch. This also benefits the free-TV signal as their broadcasts are carried under the CATV's much-improved broadcast signals thus expanding their viewer's share.

In view of the discussion above, the Court finds that the quoted sections of MC 4-08-88, *i.e.*, 6.2, 6.2.1, 6.4(a)(1) and 6.4(b) which embody the "must-carry rule," are the governing rules in the present case. These provisions sufficiently and fairly implement the intent of Section 2 of EO No. 205 to protect the broadcast television market *vis-à-vis* the CATV system. For emphasis, under these rules, the phrase "television and broadcast markets" means viewers or audience market and not commercial advertisement market as claimed by the petitioner. Therefore, the respondent's act of showing advertisements does not constitute an infringement of the "television and broadcast markets" under Section 2 of EO No. 205.

The implementing rules and regulations embodied in this circular, whose validity is undisputed by the parties, "partake of the nature of a statute and are just as binding as if they have been written in the statute itself. As such, they have the force and effect of law and enjoy the presumption of constitutionality and legality until they are set aside with finality in an appropriate case by a competent court."<sup>39</sup>

The Court further finds that the NTC also erred in ruling that EO No. 436 has deemed to amend Sections 6.2.1 and 6.4 of MC 4-08-88. In arriving at this ruling, the NTC proceeded from the wrong interpretation of EO No. 436 as a law, resulting in the consequent erroneous conclusion that EO No. 436 could amend MC 4-08-88. The Court cannot uphold these patently incorrect findings of the NTC even though it is a specialized implementing agency.


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<sup>39</sup> *ABAKADA GURO Party List (formerly AASJS), et al. v. Hon. Purisima, et al.*, 584 Phil. 246, 283 (2008).

Since the right of the respondent to show advertisements is clearly supported by EO No. 205 and MC 4-08-88, the Court finds no necessity to pass upon the issue on the validity of EO No. 436, specifically Section 3 thereof.


**WHEREFORE**, we **DENY** the petition and, accordingly, **AFFIRM** the decision and resolution of the Court of Appeals dated November 14, 2006 and February 15, 2007, respectively. Costs against petitioner GMA Network, Inc.

**SO ORDERED.**



**ARTURO D. BRION**  
Associate Justice

**WE CONCUR:**




**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**MARIANO C. DEL CASTILLO**  
Associate Justice




**JOSE PORTUGAL PEREZ**  
Associate Justice



**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice

### **A T T E S T A T I O N**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice