

Philippine Court of Appeals Dismisses 100-million-peso (US\$2.3-M) Damage Suit filed by GMA News TV -Vs- ABS-CBN As a Simple Breach of Contract Between ABS-CBN and Reuters

JGL Eye Column

By JOSEPH G. LARIOS

(© 2011 *Journal Group Link International*)

C HICAGO (*jGLi*) – The recent dismissal by the Philippine Court of Appeals of the 100-million-peso (US\$2.3-M) damage suit filed by giant GMA News TV against another giant rival ABS-CBN was really a simple breach of contract between ABS-CBN and its news agency subscriber, Reuters, and Reuters' failure to emphasize to its sub-clients to honor its sub-contract with the Lopez-owned news organization.

Resale Royalties for Journalists Due - MabuhayRadio

Written by

Sunday, 04 December 2011 12:45 - Last Updated Sunday, 04 December 2011 12:59

GMA News TV had no business suing ABS-CBN for P100-M damages after ABS-CBN issued a statement that GMA News TV stole

ABS

-

CBN

's exclusive footage of the live coverage of the arrival of Iraqi hostage victim Angelo de la Cruz in 2004 because

ABS

-

CBN

was just being truthful in its report.

Now, I would not blame the ABS-CBN if it files a counter-suit against GMA News TV to refund retainer's fees for expenses it incurred to pay its private defense lawyers and other damages. I would not be surprised if ABS-CBN would demand punitive damages from GMA News TV if only to underscore the fact that if GMA News TV or other outlets notice that they are running footages, photos or stories not their own, they should immediately "cease-and-desist" from further airing, broadcasting or printing such video, photo or story until they are sure that they have permission to get these items on the air or on print.

NO BLAME GAME PLEASE

I nstead of apologizing and pledging not to repeat the same mistake to ABS CBN for breaching ABS

-

Resale Royalties for Journalists Due - MabuhayRadio

Written by

Sunday, 04 December 2011 12:45 - Last Updated Sunday, 04 December 2011 12:59

CBN

's copyright and blaming Reuters Television Service for feeding it with an "embargoed" live coverage, GMA News TV turned the table on

ABS

CBN

, which is really the aggrieved party in this lawsuit, by filing the P100-M flimsy damage suit to cover up its own mistake.

If GMA News TV has no courage to face ABS-CBN for its mistake, it can always go a third party for mediation, like the *Kapisanan ng mga Brodkaster ng Pilipinas*

, of which

ABS

-

CBN

is a member, and resolve the matter among themselves. After all, one of the KBP missions is to advance and sustain "the highest standards of quality in the broadcast industry through the exercise of self-regulation for responsible broadcasting."

If I were GMA News TV, I would fire its own lawyers for even initiating the lawsuit when these lawyers failed to exhaust mediations.

According to the front page news report from Manila Bulletin (Nov. 27, 2011) (<http://www.mb.com.ph/articles/342774/ca-dismisses-channel7-civil-suit>

),

ABS

-

CBN

Resale Royalties for Journalists Due - MabuhayRadio

Written by

Sunday, 04 December 2011 12:45 - Last Updated Sunday, 04 December 2011 12:59

was conducting a live audio-video coverage and broadcast on the July 22, 2004 arrival of De la Cruz at the Ninoy Aquino International Airport and its subsequent press conference.

REUTERS HAD “EMBARGO” ON NEWS FEED

“On account of an existing agreement, ABS-CBN’s news coverage was also carried by Reuters Television Service, on the condition that any footage coming from ABS

-

CBN

would be categorized by Reuters under “embargo” against use by other subscribers in the country (Philippines).

“Since GMA was a subscriber of both Reuters and CNN, it received the live video feed of the coverage of the arrival that was beamed by Reuters from the Ninoy Aquino International Airport

.

“Immediately, GMA carried the Reuters feed in its flash news report simultaneously with its one live broadcast.

Written by

Sunday, 04 December 2011 12:45 - Last Updated Sunday, 04 December 2011 12:59

“GMA later explained that it did notice that what Reuters was airing was footage of ABS-CBN and that live video was under embargo in favor of the Lopez-owned station.

“Following the incident, GMA claimed that ABS-CBN aired a report about its alleged violation of ABS-CBN’s intellectual property rights.

“GMA, then, filed a complaint against ABS-CBN for alleged defamatory statements it issued against them. The complaint was initially dismissed by the Office of the City Prosecutor of Quezon City for lack of probable cause.”

ARTISTS, WRITERS SHOULD BE PAID ROYALTIES

This development came in the heels of New York Times report entitled, “Artists File Lawsuit, Seeking Royalties, “(<http://www.nytimes.com/2011/11/02/arts/design/artists-file-suit-against-sothebys-christies-and-ebay.html?nl=todaysheadlines&emc=tha28>) last Nov. 1st. The story featured one of the several artists, Robert Rauschenberg, helplessly watching his 1958 painting “Thaw” originally sold for \$900 being resold for \$85,000 in New York in 1973 without the Rauschenberg getting any part in the resale or royalty because New York does not have the “California Resale Royalties Act” that requires anyone reselling a piece of fine art, who lives in the state, or who sells the art there for \$1,000 or more, to pay the artist 5

Written by

Sunday, 04 December 2011 12:45 - Last Updated Sunday, 04 December 2011 12:59

percent of the resale price.

The California law, which applies to living artists and those who have died in the past 20 years, states that if the seller is not able to locate the artist within 90 days, he or she is required to send the payment to the California Arts Council, a state agency charged with locating the creators.

SIGN OF MATURITY

Dozens of countries already have a version of a resale-royalty law, generally referred to by the French phrase *droit de suite*. Starting in 2012, Britain and other members of the European Union will adhere to a uniform standard that applies to both living artists and those who have died within the past 70 years.

If the Philippines has similar laws for artists, writers and other news organizations, then, Reuters should have agreed with ABS-CBN to resell its footage, photos and stories, for at least 5% to GMA News TV and other outlets for as long as GMA News TV and other outlets would carry the “
ABS-CBN” seal that I often see among competing television networks and mainstream newspapers in the United States showing each other seals or copyright notices, instead of placing embargo notices for exclusivity.

Resale Royalties for Journalists Due - MabuhayRadio

Written by

Sunday, 04 December 2011 12:45 - Last Updated Sunday, 04 December 2011 12:59

If news organizations in the Philippines are able to give credit to journalists and rival organizations where credit is due after asking permission of their item's use, it will be a sign of maturity. # # #

Editor's Note: To contact the author, please e-mail him at: (lariosa_jos@sbcglobal.net)

[Joomla SEO powered by JoomSEF](#)