

**GMA NETWORK, INC. (formerly known as “RBP BROADCASTING SYSTEM, INC.”)  
and REY VIDAL v. JESUS G. BUSTOS, et al.  
G.R. No. 146848, 17 October 2006, Garcia, J. (Second Division)**

*The enumeration under Article 354 of the Revised Penal Code is not an exclusive list of conditionally privileged communications as the constitutional guarantee of freedom of speech and of the press has expanded the privilege to include fair commentaries on matters of public interest. Although every defamatory imputation is presumed to be malicious, the presumption does not exist in matters considered privileged. The privilege destroys the presumption.*

In February 1988, a certain Abello and over 200 other unsuccessful examinees in the August 1987 physicians' licensure examinations, filed a Petition for *Mandamus* before the Regional Trial Court of Manila to compel the Professional Regulatory Commission (PRC) and the board of medical examiners to re-check and reevaluate the test papers. They alleged that mistakes in the counting of the total scores and erroneous checking of answers to test questions vitiated the results of the examinations. Rey Vidal, a news writer and reporter of GMA Network, Inc., covered the filing of the said petition. After securing a copy of the petition, he drafted and narrated the news report for the ten o'clock evening news edition of GMA's Channel 7 *Headline News*.

Jesus G. Bustos, et al., former chairman and members of the Board of Medicine of the PRC which conducted the examinations, filed a damage suit against Vidal and GMA Network, claiming, *inter alia*, that the latter, in reckless disregard for the truth, defamed them by word of mouth and simultaneous visual presentation on GMA's Channel 7 of an unrelated and old footage showing physicians wearing black armbands. According to them, Vidal and GMA Network made use of the said footage to make it appear that other doctors were supporting and sympathizing with the complaining unsuccessful examinees, when the same actually related to a 1982 demonstration staged by doctors and personnel of the Philippine General Hospital (PGH) regarding wage and economic dispute with hospital management.

The trial court dismissed the complaint for damages, holding that the news report was privileged, being but a narration of the allegations contained in and the circumstances attending the filing of the Petition for *Mandamus*. This was reversed by the Court of Appeals which, while regarding the text of the news report as a qualifiedly privileged communication, nevertheless held that the insertion of the unrelated 1982 PGH picket film footage, “without the words *file video*,” was evidence of malice.

**ISSUES:**

- 1.) Whether or not the televised news report on the filing of the Petition for *Mandamus* is libelous;
- 2.) Whether or not the insertion of the old film footage depicting the doctors and personnel of the PGH in their 1982 demonstrations constitutes malice to warrant the award of damages

**HELD:**

The petition is GRANTED.

*The news report is qualifiedly privileged communication, being a “fair and true report without any comment or remarks.”*

Privileged matters may be absolute or qualified. Absolutely privileged matters are not actionable regardless of the existence of malice in fact. The *mala* or *bona fides* of the author is of no moment as the occasion provides an absolute bar to the action. In qualifiedly or conditionally privileged communications, the freedom from liability for an otherwise defamatory utterance is conditioned on the absence of express malice or malice in fact. To this kind belongs “*private communications*” and “*fair and true report without any comment or remarks*” falling under and described as exceptions in Article 354 of the Revised Penal Code (RPC). The enumeration under this provision is not an exclusive list of conditionally privileged communications as the constitutional guarantee of freedom of speech and of the press has expanded the privilege to include fair commentaries on matters of public interest.

The news telecast in question is a qualifiedly privileged matter, the same being only a narration of the contents of the Petition for *Mandamus*, devoid of any comment or remark. What Vidal and GMA Network did was simply to inform the public of the said petition filed against the then Board of Medicine. It was clearly within Vidal’s job to keep the public abreast of recent developments in government institutions, which he was assigned to cover.

***The insertion of the 1982 video footage is not malicious.***

Contrary to the findings of the Court of Appeals, the identifying character-generated words “*file video*” appeared to have been superimposed on screen, purposely to prevent misrepresentation so as not to confuse the viewing public. At any rate, the absence of the said accompanying words would not change the legal situation insofar as the privileged nature of the news report is concerned. The video footage, standing without accompanying sounds or voices, was meaningless, or, at least, conveyed nothing derogatory in nature. Even assuming *arguendo* that the film footage contained demeaning features, the showing thereof was actually accompanied or simultaneously voiced over by the narration of the news report lifted from the filing of the *mandamus* petition. There was nothing in the news report to indicate an intent to utilize such old footages to create another news story beyond what was reported.

The subject news report was clearly a fair and true report. Thus, Vidal and GMA Network are entitled to the protection and immunity of the rule on privileged matters under Art. 354, par. 2 of the RPC, and can not be held liable for damages. Their failure, perhaps even their indisposition, to obtain and telecast the side of the former Board of Medicine, is not an indicia of malice. For, although every defamatory imputation is presumed to be malicious, the presumption does not exist in matters considered privileged. The privilege destroys the presumption.