

IN THE APPEAL TRIBUNAL FOR THE FILMS AND PUBLICATIONS BOND HELD IN SANDTON, STER KINEKOR OFFICES

On the 21st of December 2017

Case No:

In the matter between:

Ster Kenikor Entertainment (SA)

APPELLANT

And

The Film and Publication Board (FPB)

RESPONDENT

AWARD: JUMANJI

Christopher Mamathuntsha: Chairperson

BACKGROUND

1. The Film and publications Board has classified the film Jumanji and gave it a rating of 13LV.
 - 1.1. The film Jumanji is a feature that is intended for family consumption, where we see the film telling the story of an epic adventure in a fun, comedic and a very wholesome way using multiple characters (Icons/celebrities) in trying to emphasise its overarching message.
 - 1.2. The appeal tribunal set on the 21st December and considered the appeal filed by the appellant against the classification given by the classification committee a rating of 13LV. The appellant sought to have the rating by the classification committee given a lower rating of 7-9 years of age.
2. The appellant was represented by MS Nadine Rosanne, a Marketing Manager in the appellant's employment and the respondent by Ms Noluthando Bhengu, Acting Legal Manager.
 - 2.1. The appellant elected to make oral submissions to the tribunal and also handed over a document containing "notes" as reference material for the purpose of making their submissions
It must also be recorded that the tribunal sought to establish from the appellant, at the commencement of the hearing if it will require any legal assistance for the purpose of the hearing and the appellant confirmed that they were aware of their right to legal representation at the hearing but had however elected to proceed without such assistance.
 - 2.2. This question was further put across to the appellant after both parties concluded their submissions and appellant maintained that it was comfortable in proceeding legal

assistance and that given the time period in between the release of the film and the decision of the tribunal, it saw no need to seek such legal assistance.

2.3. We must however, commend the efforts made by the appellant in presenting its submissions despite not having assistance of legal representation.

2.4. Before sitting through the appeal, the tribunal members watched the film, and thereafter considered both the oral submissions of the appellant, the written heads of argument as well as oral submissions of the respondent.

The following finding was made regarding the appeal.

1. The appeal is dismissed
 2. The rating of 13LV by the classification committee stands
 3. Reasons to be provided in due course
 4. The document titled the impact of Media content on children in “South Africa” attached to the respondent’s heads of argument is found to be admissible for the purpose of this appeal
- 2.5. It is noteworthy to state that the appeal tribunal was not furnished with the reasons of the classification committee separately save to state that the Respondent attempted to deal with this in its heads of argument.
- 2.6. The appellant made the following submissions in support of its appeal.
- 2.6.1. That they have received positive feedback from the South African film audience about the film Jumanji.
 - 2.6.2. That there are positive parts of the film
 - 2.6.3. They sought to address the tribunal on the issue of language and violence in the film
 - 2.6.4. The appellant submitted that it hoped that a 7-9 classification will be given and admitted that there was a lot going on in the film.
 - 2.6.5. They emphasised that it is given a 7-9 classification with parental guidance because of its potentially distressing or harmful aspects
 - 2.6.6. The appellant argued that violence and language is justifiable in the context.
 - 2.6.7. They further submitted that the violence and strong language is not the full context of the film. This they support by arguing that there is a humorous thread throughout the film. What the appellant calls comedic silliness throughout the film.
 - 2.6.8. That there are moral lessons to be learnt in the film, which is friendship.
 - 2.6.9. That language and violence are less impactful, whilst also conceding that a this could be confusing to the young viewer. They argue that it’s easy for school youngsters to understand.

- 2.6.10. The appellant submitted that the context is not the hippo swallowing the person. The appellant gives an example of Nerd, a young girl basketball player who loves social media.
3. The appellant does not dispute that there are confusing scenes in the film. They submit that stronger scenes are less impactful because they are followed by lighthearted, humorous scenes.
 - 3.1. They argue that the swallowing of the characteris a light comedic way and it is funny.
 - 3.2. The weaponry, the fleeing animals.
 - 3.2.1. The appellant justify the use of the word “insane” and submitted that kids use this language from time to time.
 - 3.2.2. They further submit that this type of language is funny to the general audience and that it appeals to them. They give an example of the way in which the lady (Martha) went to entice the security guards as an example.
 - 3.2.3. The appellant described the gory scorpion incident of spencer as something that does not linger throughout the film. Its only one scene and it is short as explained by the appellant.
 - 3.2.4. The appellant argued that kids under the age 7-9 are exposed to this type of language.
They further argued that this is digestible for a 7-9 audience.
 - 3.2.5. The appellant concluded its submissions by submitting that this film is packaged in a fun, light hearted way and that it keeps one in a suspense of what is coming and that there is a continuous reference to a game.
No documentary evidence/ material was handed over to the tribunal supporting the appellant`s submissions. This concluded the submissions by the appellant.

4. **The Respondent’s Argument**

- 4.1. The Respondent submitted written heads of argument and also made oral representations based on the heads it served on the tribunal as well as the appellant.
- 4.2. Whilst we shall not repeat the heads as they are, the Respondent submitted the following as its salient points to enhance its opposition to the appellant’s appeal.
- 4.3. The Respondents submitted that the violence in the film overrides the comedy element.
- 4.4. That this was confusing to an audience younger than 7 years.
- 4.5. They submitted that this an action movie with violence supplemented by comedy.
- 4.6. The violence in the film is so real.
- 4.7. They submitted further that the only fantasy is that it is a game. The animals appear real. The fighting scenes are real as well as the ammunition.
- 4.8. They submitted further that there is also an element of suspense and that the sound effect before the jungle is scary.
- 4.9. They argued that the film causes psychological harm to the audience that it is intended for.
- 4.10. That there is a fluctuation of moods throughout the film and that this is a stressed mood.

5. The Respondent submitted that this is confusing and that kids are being desensitised to bad language.
 - 5.1. The theme of body morphology has to be explained.
 - 5.2. They submitted further that children under the age of 13 emulate what they see. This they say is according to a study they referred the tribunal to, which was attached to their heads of argument.
 - 5.3. The Respondent further submits that children under 17 do not approach their parents about what they have seen.
 - 5.4. That the cognitive development of children has to be taken into account.
 - 5.5. The Respondent lamented the use of the character Martha and the use of her body to seduce and the language of prejudice.
 - 5.6. The Respondent was at pains to point out how does a parent explain the use of the word bitch to children?
 - 5.7. It was the 'respondent's' submission that violence is glamourised. The use of the word sexy by the big guy was offending. They went on further to point out that it appears violence is acceptable if it's for a bigger cause.
 - 5.8. The Respondent submitted that the positive themes in the films are not sustainable and that the snake scene is scary.
 - 5.9. The Respondent argued that in terms of the guidelines, the violence is moderate.
 - 5.10. That Bethanie is the "it girl" and thus amounted to the sexual objectification of the lady. She is presented as someone who is good at taking selfies and flirting with guys. This is the summary of the Respondent's argument.

Our reasoning as the Appeals tribunal

In analysing the arguments presented by both parties, we are directed to look at the guiding principles regarding all classification decisions: that we must consider the context, the impact and the format in which the film material is intended to be released.

This guidelines can be found under section 3(C) as well as on section 4 (e) (2) (e) of the classification guidelines.

Section 3(2) of the guidelines directs as follows, that when considering the context, regard must be had to the following factors.

- a) The expectation of the public in general and the target market of the material.
- b) The theme of the material.
- c) The manner in which the issue is presented.
- d) The literary, artistic, dramatic or educational merit of the film.
- e) The apparent intention of the filmmaker as reflected in its effect.

We are unanimous in concluding that there is only 20% comedy in the film. That indeed the appellant is correct in submitting that children learn by imitating, more so when it is an icon that they idolize. The comedy scenes in the movie are quick and that the humour is short lived.

We are of the view that the scenes containing themes of violence are cumulatively speaking, more prevalent in the film than the comedic one. Although the viewer learns through the middle that it's only a game, the characters, the language usage does not benefit the classification requested by the appellant.

In arriving at our decision, the tribunal is guided by what is in the best interests of children at the given age. The Film and Publications Board is a regulatory authority responsible for the regulation of media content through appropriate age restrictions and classification guidelines. The ultimate challenge for the Film and Publications board is to be able to enforce appropriate age restrictions and classification guidelines for children, in ways that will encourage the positive aspects of media content, simultaneously protect children from being exposed to material that cannot adequately be processed or understood and therefore be potentially harmful.

It is peremptory to always seek guidance from the Films and Publications Act, the 2014 classification guidelines issued flowing from the Act. We find that the appellant has not passed the muster as outlined in the guidelines and appeared not have attempted to familiarise themselves with same.

Dated at Johannesburg on this the 31st December 2017

With the following members concurring

- 1, Adv L T Mapipa
- 2, Mr L Malada
- 3, Ms M Tsohlisi
- 4, Ms Sigcau

With a dissenting, Mr S Snail Ka Mtuze, considering the totality of the summons by the applicant and the Respondent as well as relevant factors and comparative previous decisions, despite the fact that they are merely persuasive . I uphold the rating giving rating of 10 PG LV