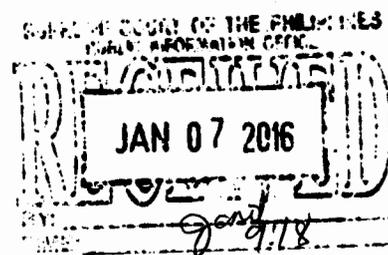




Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION



THE CITY OF ILOILO,
 Represented by **HON. MAYOR**
JERRY P. TREÑAS,
 Petitioner,

G.R. No. 160399

Present:

-versus-

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, JJ.

HON. JUDGE RENE B. HONRADO,
PRESIDING JUDGE, REGIONAL
TRIAL COURT, BRANCH 29,
ILOILO CITY, AND
JPV MOTOR VEHICLE EMISSION
TESTING & CAR CARE CENTER,
CO., REPRESENTED BY JIM P.
VELEZ,

Promulgated:

DEC 09 2015

Respondents.

x-----x

DECISION

BERSAMIN, J.:

The essential office of preliminary injunction is to preserve the rights of the parties before the final adjudication of the issues. Where injunction is the main relief sought in the action, therefore, the trial court should desist from granting the plaintiff's application for temporary restraining order or writ of preliminary injunction if such grant would tend to prejudice the case on the merits. The preliminary injunction should not determine the merits of the case, or decide controverted facts, but should still look to a future final hearing.

The Case

This case is a direct resort to the Court by way of *certiorari* to challenge the orders issued on June 24, 2003¹ and August 15, 2003² in Civil Case No. 03-27648 by the Regional Trial Court (RTC), Branch 29, in Iloilo

¹ *Rollo*, pp. 29-30.

² *Id.* at 31.

City on the ground that the RTC thereby committed grave abuse of its discretion amounting to lack or excess of jurisdiction.

Antecedents

The Department of Transportation and Communications (DOTC) issued Department Order No. 2002-31 (with the subject “AUTHORIZATION OF PRIVATE EMISSION TESTING CENTERS”).³ Item No. 2 of Department Order No. 2002-31 stated:

2. To ensure that “cut throat” or “ruinous” competition, that may result to the degradation of level of service of the project is avoided, authorization of PETC should strictly be rationalized taking into consideration the vehicle population expected to be serviced in the area. As basis, one (1) PETC lane shall be authorized for every 15,000 registered vehicles in an LTO Registering District.

JPV Motor Vehicle Emission Testing and Car Care Center (JPV), a partnership authorized to operate a PETC in Iloilo City, was granted a capacity of four lanes that could cater to 15,000 motor vehicles per lane for the total capacity of 60,000 motor vehicles. At the time JPV filed the complaint in Civil Case No. 03-27648 to prevent the petitioner from acting on the pending application for the operation of another Private Emission Testing Center (PETC) in Iloilo City, there were 53,647 registered motor vehicles in Iloilo City. Accordingly, JPV averred in its complaint that there was no need for another PETC because it already had the capability to serve all the registered motor vehicles in Iloilo City pursuant to Department Order No. 2002-31.⁴

Through its answer, the petitioner contested the injunctive relief being sought by JPV, insisting that such relief, if issued, would result into a monopoly on the part of JPV in the operation of a PETC; that the writ of injunction would prevent the exercise by the City Mayor of his discretionary power to issue or not to issue business permits; and that JPV did not establish the existence of its right *in esse* to be protected by the writ of injunction.⁵

On June 18, 2003, Grahar Emission Testing Center (Grahar), another PETC operator with a pending application for a business/mayor’s permit to operate its own PETC in Iloilo City, sought leave of court to intervene in Civil Case No. 03-27648.⁶

³ Id. at 36-37.

⁴ Id. at 32-35.

⁵ Id. at 40-44.

⁶ Id. at 45-46.

Although it allowed the intervention of Grahar on June 24, 2003, the RTC nonetheless issued the first assailed order granting the application of JPV for the writ of preliminary injunction,⁷ also on June 24, 2003, disposing as follows:

WHEREFORE, let the Writ of Preliminary Prohibitory Injunction issue. The defendant City of Iloilo, his agents, representatives or anyone acting for and in his behalf is ordered to refrain and desist from the issuance of a Mayor's Permit to operate a PETC in the City of Iloilo.

It is understood that the herein injunction shall be dissolved the moment the DOTC authorizes the operations of another or additional PETC in the City of Iloilo.

The plaintiff is directed to post an Injunction Bond in the amount of Php 100,000.00 executed in favor of the defendant to the effect that Plaintiff will pay the defendant all damages which it may sustain by reason of the injunction should the court finally decide that plaintiff is not entitled thereto.

SO ORDERED.

The petitioner moved for the reconsideration of the first assailed order of June 24, 2003 and prayed for the dissolution of the writ of preliminary injunction.⁸ On August 15, 2003, however, the RTC issued the second assailed order denying the petitioner's *Motion for Reconsideration*,⁹ to wit:

This resolves the motion for reconsideration of the Order dated June 24, 2003.

It must be noted that the writ of injunction was issued to give effect to the Department Order No. 2002-31 dated August 20, 2002 of the DOTC to prevent the degradation of the level of service of the smoke emission test. The amendment of certain section of the said department order, thereby reducing the vehicle requirements from 15,000 to 12,000 vehicles per one (1) PETC lane does not in anyway require for an additional PETC to operate since the LTO is also operating two-lanes testing facilities which can serve 24,000 vehicles plus the four-lanes testing facilities currently operated by the herein plaintiff can accommodate 72,000 vehicles which is more than enough to serve the 53,647 registered vehicles in the City of Iloilo. To allow additional PETC will surely result to an unhealthy competition which will run counter to the purpose of the DOTC Department Order No. 2002-31, i.e., *to ensure that "cut throat" or "ruinous" competition that may result to the degradation of level of service of the project is avoided, authorization of PETC should strictly be rationalized taking into consideration the vehicle population expected to be serviced in the area.*

⁷ Supra note 1, at 30.

⁸ *Rollo*, pp. 62-69.

⁹ Supra note 2.

WHEREFORE, the motion for reconsideration is hereby denied. The Order dated June 24, 2003 stands.

SO ORDERED.

It is relevant to note that Grahar filed its own *Urgent Motion for Reconsideration on the Issuance of a Writ of Preliminary Prohibitory Injunction in Favor of the Plaintiff*,¹⁰ whereby it brought to the attention of the RTC the fact that the DOTC had meanwhile issued on April 10, 2003 Department Order No. 2003-24 (with the subject “AN ORDER AMENDING CERTAIN SECTIONS OF DEPARTMENT ORDER NO. 2002-31”) in order to reduce the required vehicle capacity per lane of PETCs from 15,000 vehicles to 12,000 vehicles. Grahar contended that JPV’s capacity and capability were no longer sufficient to serve the emission testing requirements of the entire motor vehicle population of Iloilo City.

Issue

Hence, on November 5, 2003,¹¹ the petitioner has come directly to the Court on *certiorari* to challenge the foregoing orders, specifically asserting:

- A. THAT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ORDER DATED JUNE 24, 2003 ORDERING PETITION[ER] CITY MAYOR OF ILOILO (*sic*), HIS AGENTS REPRESENTATIVES OR ANYONE ACTING FOR AND IN HIS BEHALF TO REFRAIN AND DESIST FROM THE ISSUANCE OF A MAYOR’S PERMIT TO OPERATE A PRIVATE EMISSION TESTING CENTER IN THE CITY OF ILOILO, WHICH IN EFFECT PREVENTED THE EXERCISE BY PETITIONER CITY MAYOR (*sic*) OF A DISCRETIONARY POWER GRANTED BY LAW, ABSENT ANY SHOWING OF ABUSE IN THE EXERCISE THEREOF.
- B. THAT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING THAT DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS ORDER NO. 2002-31 PROVIDES A BASIS FOR THE ISSUANCE OF A WRIT OF PRELIMINARY PROHIBITORY INJUNCTION IN FAVOR OF RESPONDENT AND AS AGAINST PETITIONER CITY MAYOR (*sic*).
- C. THAT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING PETITIONER’S MOTION FOR RECONSIDERATION AS CONTAINED IN ITS ORDER OF AUGUST 15, 2003.

¹⁰ Records, pp. 112-113.

¹¹ *Rollo*, pp. 14-15.

In its comment,¹² JPV counters that the petitioner made no showing of grave abuse of discretion by the RTC because it had established its capability to serve the entire needs of Iloilo City for the PETC.

In its reply,¹³ the petitioner adverts to Department Order No. 2003-51, another DOTC order issued on October 13, 2003 (with the subject “AN ORDER NULLIFYING SECTIONS 2 AND 3 OF DEPARTMENT ORDER NO. 2002-31”), and submits:

In deference to the opinion of the Office of the Solicitor General dated 10 July 2003 which as quoted verbatim “policy considerations dictate that open competition will better serve public needs because it will result in better service for a lesser price to motor vehicle owners” and further stressed that “Further, the lifting of a quota for each lane will eschew future litigations on the matter”, Sections 2 and 3 of Department Order No. 2002-31 are hereby nullified.

All previous and/or issuances that are found inconsistent herewith are hereby amended.¹⁴

In the cited opinion, the Solicitor General opined and recommended that “the LTO may validly eliminate the basis or quota of vehicles to be serviced by PETC lanes.”¹⁵

Ruling of the Court

The Court grants the petition for *certiorari*.

A preliminary injunction is an order granted at any stage of an action or proceeding prior to the judgment or final order requiring a party or a court, an agency, or a person to refrain from a particular act or acts. Its essential role is preservative of the rights of the parties in order to protect the ability of the court to render a meaningful decision,¹⁶ or in order to guard against a change of circumstances that will hamper or prevent the granting of the proper relief after the trial on the merits.¹⁷ Another essential role is preventive of the threats to cause irreparable harm or injury to a party before the litigation could be resolved. In *Pahila-Garrido v. Tortogo*,¹⁸ we have

¹² Id. at 74-79.

¹³ Id. at 106.

¹⁴ Id. at 109.

¹⁵ Id. at 113.

¹⁶ *Meis v. Sanitas Service Corporation*, C. A. Tex., 511 F. 2d 655; *Gobel v. Laing*, 231 N. E., 2d 341, 12 Ohio App. 2d 93.

¹⁷ *United States v. Adler's Creamery*, C. C. A. N. Y., 107 F. 2d 987; *American Mercury v. Kiely*, C. C. A. N. Y., 19 F. 2d 295.

¹⁸ G.R. No. 156358, August 17, 2011, 655 SCRA 553, 575-576.

explained the preservative or preventive character of injunction as a remedy in the course of the litigation, *viz.*:

Generally, injunction, being a preservative remedy for the protection of substantive rights or interests, is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. It is resorted to only when there is a pressing necessity to avoid injurious consequences that cannot be redressed under any standard of compensation. The controlling reason for the existence of the judicial power to issue the writ of injunction is that the court may thereby prevent a threatened or continuous irremediable injury to some of the parties before their claims can be thoroughly investigated and advisedly adjudicated. The application for the writ rests upon an alleged existence of an emergency or of a special reason for such an order to issue before the case can be regularly heard, and the essential conditions for granting such temporary injunctive relief are that the complaint alleges facts that appear to be sufficient to constitute a cause of action for injunction and that on the entire showing from both sides, it appears, in view of all the circumstances, that the injunction is reasonably necessary to protect the legal rights of plaintiff pending the litigation.

Reflecting the avowed roles of the remedy, Section 3, Rule 58 of the *Rules of Court* set the guidelines for when the issuance of a writ of preliminary injunction is justified, namely: (a) when the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually; or (b) when the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or (c) when a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

Did the RTC contravene the foregoing guidelines when it granted JPV's application for the writ of preliminary injunction?

Although the RTC had the broad discretion in dealing with JPV's application for the writ of preliminary injunction, it was bound by the Court's exhortation against thereby prejudging the merits of the case in *Searth Commodities Corp. v. Court of Appeals*:¹⁹

The prevailing rule is that courts should avoid issuing a writ of preliminary injunction which would in effect dispose of the main case without trial. (*Rivas v. Securities and Exchange Commission*, 190 SCRA 295 [1990]; *Government Service and Insurance System v. Florendo*, 178

¹⁹ G.R. No. 64220, *Marche* 31, 1992, 207 SCRA 622, 629-630.

SCRA 76 [1989]; and *Ortigas v. Co. Ltd. Partnership v. Court of Appeals*, 162 SCRA 165 [1988]) In the case at bar, if the lower court issued the desired writ to enjoin the sale of the properties premised on the aforementioned justification of the petitioners, the issuance of the writ would be a virtual acceptance of their claim that the foreclosure sale is null and void. (See *Ortigas and Co., Ltd. Partnership v. Court of Appeals, supra*). **There would in effect be a prejudgment of the main case and a reversal of the rule on the burden of proof since it would assume the proposition which the petitioners are inceptively bound to prove.** (Id.) (bold emphasis supplied)

If it was plain from the pleadings that the main relief being sought in Civil Case No. 03-27648 was to enjoin the petitioner from exercising its legal power as a local government unit to consider and pass upon applications for business permits for the operation of businesses like the PETC, and to issue business permits within its territory, we find it appalling how the RTC casually contravened the foregoing guidelines and easily ignored the exhortation by granting JPV's application for injunction on June 24, 2003 in the initial stage of the case. Such granting of JPV's application already amounted to the virtual acceptance of JPV's alleged entitlement to preventing the petitioner from considering and passing upon the applications of other parties like Grahar to operate their own PETC in Iloilo City based on JPV's still controversial capability to serve all the registered motor vehicles in Iloilo City pursuant to Department Order No. 2002-31. The granting amounted to the prejudgment of the merits of the case, something the RTC could not validly do. It apparently forgot that the function of the writ of preliminary injunction was not to determine the merits of the case,²⁰ or to decide controverted facts,²¹ because an interlocutory injunction was but a *preliminary* and *preparatory* order that still looked to a future final hearing, and, although contemplating what the result of that hearing would be, it should not settle what the result should be.²²

Thus, the RTC did not exercise its broad discretion soundly because it blatantly violated the right to be heard of the petitioner, whose right to substantiate its defense of the power to regulate businesses within its territorial jurisdiction should be fully recognized. It also violated the right to be heard of the intervenor Grahar, whose intervention in the suit was granted only on the same date of June 24, 2003. To stress yet again, the main relief could not be resolved without receiving the evidence of all the parties that would settle the contested facts.

²⁰ *B. W. Photo Utilities v. Republic Molding Corporation*, C. A. Cal., 280 F. 2d 806; *Duckworth v. James*, C. A. Va. 267 F. 2d 224; *Westinghouse Electric Corporation v. Free Sewing Machine Co.*, C. A. Ill, 256 F. 2d 806.

²¹ *Lonergan v. Crucible Steel Co. of America*, 229 N. E. 2d 536, 37 Ill. 2d 599; *Compton v. Paul K. Harding Realty Co.*, 231 N. E. 2d 267, 87 Ill. App. 2d 219.

²² *Milton Frank Allen Publications, Inc. v. Georgia Association of Petroleum Retailers, Inc.*, 158 S. E. 2d 248, 223 Ga. 784; *Parker v. West View Cemetery Association*, 24 S. E. 2d 29, 195 Ga. 237.

Under the circumstances, the challenged orders of the RTC were undeniably tainted with grave abuse of discretion amounting to lack or excess of jurisdiction. *Grave abuse of discretion* means such capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction.²³ To justify the issuance of the writ of *certiorari*, the abuse of discretion must be grave, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and the abuse must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act at all, in contemplation of law, as to be equivalent to having acted without jurisdiction.²⁴

Certiorari lies. According to *Pahila-Garrido v. Tortogo*:²⁵

Certiorari is a writ issued by a superior court to an inferior court of record, or other tribunal or officer, exercising a judicial function, requiring the certification and return to the former of some proceeding then pending, or the record and proceedings in some cause already terminated, in cases where the procedure is not according to the course of the common law. The remedy is brought against a lower court, board, or officer rendering a judgment or order and seeks the annulment or modification of the proceedings of such tribunal, board or officer, and the granting of such incidental reliefs as law and justice may require. It is available when the following indispensable elements concur, to wit:

1. That it is directed against a tribunal, board or officer exercising judicial or *quasi*-judicial functions;
2. That such tribunal, board or officer has acted without or in excess of jurisdiction or with grave abuse of discretion; and
3. That there is no appeal nor any plain, speedy and adequate remedy in the ordinary course of law.

Certiorari being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rules laid down by law. The extraordinary writ of *certiorari* may be availed of only upon a showing, in the minimum, that the respondent tribunal or officer exercising judicial or *quasi*-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion.

For a petition for *certiorari* and prohibition to prosper and be given due course, it must be shown that: (a) the respondent judge or tribunal issued the order *without* or *in excess of* jurisdiction or *with grave abuse of discretion*; or (b) the assailed interlocutory order is *patently erroneous*, and the remedy of appeal cannot afford adequate and expeditious relief. Yet, the allegation that the tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his

²³ *Feliciano v. Villasin*, G.R. No. 174929, June 27, 2008, 556 SCRA 348, 363; *Uy v. Office of the Ombudsman*, G.R. Nos. 156399-400, June 27, 2008, 556 SCRA 73, 93.

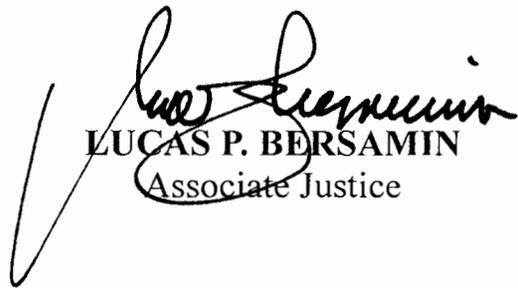
²⁴ *Vergara v. Ombudsman*, G.R. No. 174567, March 12, 2009, 580 SCRA 693, 713; *Nationwide Security and Allied Services, Inc. v. Court of Appeals*, G.R. No. 155844, 14 July 2008, 558 SCRA 148, 153.

²⁵ *Supra* note 18, at 568-569.

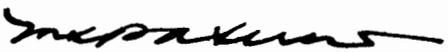
jurisdiction or with grave abuse of discretion will not alone suffice. Equally imperative is that the petition must satisfactorily specify the acts committed or omitted by the tribunal, board or officer that constitute grave abuse of discretion.

WHEREFORE, the Court **GRANTS** the petition for *certiorari*; **ANNULS** and **SETS ASIDE** the assailed orders issued on June 24, 2003 and August 15, 2003 in Civil Case No. 03-27648 by the Regional Trial Court, Branch 29, in Iloilo City; **DISSOLVES** the writ of preliminary prohibitory injunction issued pursuant to such orders; **ORDERS** the Regional Trial Court, Branch 29, in Iloilo City to resume its proceedings in Civil Case No. 03-27648 as if said orders had not been issued, if further proceedings are still warranted; and **DIRECTS** respondent **JPV MOTOR VEHICLE EMISSION TESTING & CAR CARE CENTER, CO., REPRESENTED BY JIM P. VELEZ** to pay the costs of suit.

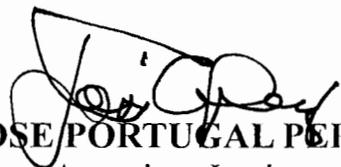
SO ORDERED.

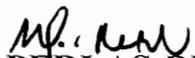

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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