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 Third Division

JAN 05 2018

Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

BICOL MEDICAL CENTER, G.R. No. 214073
 represented by **Dr. Efren SJ. Nerva,**
 and the **DEPARTMENT OF** Present:
HEALTH, represented by HEALTH
SECRETARY ENRIQUE T. ONA, VELASCO, JR., *J., Chairperson,*
 Petitioners, BERSAMIN,
 LEONEN,
 MARTIRES, and
 GESMUNDO, *JJ.*

-versus-

NOE B. BOTOR, CELJUN F. YAP,
ISMAEL A. ALBAO, AUGUSTO S.
QUILON, EDGAR F. ESPLANA II,
 and **JOSEFINA F. ESPLANA,**
 Respondents.

Promulgated:
 October 4, 2017

Wilfredo V. Lapid

X-----X

DECISION

LEONEN, J.:

Prima facie evidence is evidence that is not rebutted or contradicted, making it good and sufficient on its face to establish a fact constituting a party's claim or defense.¹

This resolves the Petition for Review² filed by Bicol Medical Center and the Department of Health, assailing the February 28, 2014 Decision³ and

¹ *Wa-acon v. People*, 539 Phil. 485, 494 (2006) [Per J. Velasco, Third Division].

² *Rollo*, pp. 9-34.

³ *Id.* at 35-46. The Decision was penned by Associate Justice Ricardo R. Rosario and concurred in by Associate Justices Amelita G. Tolentino and Leoncia Real-Dimagiba of the Fourth Division, Court of

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August 26, 2014 Resolution⁴ of the Court of Appeals in CA-G.R. SP No. 129806.

Camarines Sur Provincial Hospital (Provincial Hospital) was established in 1933 as a 25-bed provincial hospital located along Mabini Street, now Peñafrancia Avenue, Naga City. The Camarines Sur Provincial Government eventually subsidized the operations of a private hospital located at Concepcion Pequeña, Naga City and transferred the Provincial Hospital there.⁵

Road Lot No. 3, which stretched from Panganiban Road to J. Miranda Avenue, is a service road which leads to the Provincial Hospital.⁶

The Provincial Hospital was eventually converted to the Bicol Regional Training and Teaching Hospital (Training and Teaching Hospital).⁷

Sometime in 1982, the Camarines Sur Provincial Government donated about five (5) hectares of land to the Ministry of Health, now the Department of Health,⁸ as evidenced by Transfer Certificate of Title (TCT) No. 13693.⁹ The Training and Teaching Hospital and Road Lot No. 3 were included in this donation.¹⁰

The Training and Teaching Hospital became the Bicol Medical Center (BMC) in 1995.¹¹

Sometime in 2009, BMC constructed a steel gate along J. Miranda Avenue to control the flow of vehicle and pedestrian traffic entering the hospital premises.¹²

On March 21, 2012, Dr. Efren SJ. Nerva (Dr. Nerva), BMC Chief I, issued Hospital Memorandum No. 0310,¹³ which ordered the rerouting of traffic inside the BMC Compound. Salient portions of this Memorandum read:

Appeals, Manila.

⁴ Id. at 47–48. The Resolution was penned by Associate Justice Ricardo R. Rosario and concurred in by Associate Justices Jane Aurora C. Lantion and Leoncia Real-Dimagiba of the Special Former Fourth Division, Court of Appeals, Manila.

⁵ *About Bicol Medical Center*, available at <<http://gwhs-stg02.i.gov.ph/~s2dohbmcgov/?q=about-bmc>> (last accessed on September 11, 2017).

⁶ *Rollo*, p. 36.

⁷ Id.

⁸ Id.

⁹ Id. at 49.

¹⁰ Id. at 36.

¹¹ Id.

¹² Id. at 12 and 36.

¹³ Id. at 51.

To: **All Officials and Employees**
This Center

Subject: Traffic Re-routing inside the BMC Compound

In line with the Traffic Re-routing of the Center, the exit gate at the MCC Quarters shall be closed and the OPD Exit Gate shall be used for the exit of pedestrians and motor vehicles effective April 1, 2012.

For information and dissemination purposes.¹⁴

This rerouting scheme closed the steel gate for vehicles and pedestrians along J. Miranda Avenue, relocating it from the eastern side of the hospital to the western side effective April 1, 2012.¹⁵ The relocation of this gate was implemented for security reasons and to make way for “[m]assive development within the Complex.”¹⁶

The gate closure drew a lot of criticism from the community, and on May 19, 2012, Atty. Noe Botor (Atty. Botor) wrote to Naga City Mayor John Bongat (Mayor Bongat), asking for the reopening or dismantling of the gate for being a public nuisance.¹⁷

The Sangguniang Panlungsod of Naga City passed a resolution authorizing Mayor Bongat to dismantle the gate.¹⁸ However, instead of dismantling it, Mayor Bongat filed a Verified Petition with Prayer for a Writ of Preliminary Injunction against BMC. The case was docketed as Civil Case No. 2012-0073 and raffled to Branch 24, Regional Trial Court, Naga City.¹⁹

Atty. Botor, Celjun F. Yap, Ismael A. Albao, Augusto S. Quilon, Edgar F. Esplana II, and Josefina F. Esplana (Intervenors) were allowed to intervene and submit their complaint-in-intervention.²⁰

A few months later, ground-breaking ceremonies for the construction of the Cancer Center Building²¹ were conducted, with construction intended to begin in January 2013. When fully completed, the Cancer Center Building would take over “about three-fourths (¾) of the width of Road Lot No. 3.”²²

¹⁴ Id. at 51.

¹⁵ Id. at 12.

¹⁶ Id.

¹⁷ Id. at 37.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id. at 54–58.

²² Id. at 37–38.

On December 21, 2012, the Regional Trial Court denied Naga City's application for injunctive relief, ruling that Naga City failed to prove a clear and unmistakable right to the writ prayed for.²³

On February 22, 2013, the Regional Trial Court denied the motion for reconsideration filed by the Intervenors.²⁴

Only the Intervenors filed a petition for certiorari before the Court of Appeals.²⁵

On February 28, 2014, the Court of Appeals granted the petition and emphasized that only a *prima facie* showing of an applicant's right to the writ is required in an application for writ of injunctive relief.²⁶

The Court of Appeals opined that the Intervenors were able to prove the public character of Road Lot No. 3, considering that "the general public had been using [it] since time immemorial," with even Dr. Nerva admitting that he passed through it when he was young. The Court of Appeals also gave due weight to the 1970s Revised Assessor's Tax Mapping Control Roll and its Identification Map, which support the Intervenors' assertion of the public nature of Road Lot No. 3.²⁷

The Court of Appeals concluded that Naga City and the Intervenors were able to present *prima facie* evidence of their right to the writ. However, the Court of Appeals pointed out that whether or not the Revised Assessor's Tax Mapping Control Roll should prevail over BMC's title over the property is a factual matter that should be threshed out in the trial court.²⁸ The dispositive portion of the Court of Appeals Decision read:

WHEREFORE, premises considered, the instant petition is hereby **GRANTED**. The court *a quo* is hereby **DIRECTED** to issue a writ of mandatory preliminary injunction in the case *a quo*.

SO ORDERED.²⁹ (Emphasis in the original)

On August 26, 2014, the Court of Appeals³⁰ denied the motions for reconsideration filed by BMC and the Department of Health. However, the

²³ Id. at 38.

²⁴ Id. at 39.

²⁵ Id.

²⁶ Id. at 41.

²⁷ Id. at 41-42.

²⁸ Id. at 42.

²⁹ Id. at 46.

³⁰ Id. at 47-48.

Court of Appeals emphasized that the injunction was not directed against the construction of the Cancer Center Building but against the relocation of the service road and gate closure.³¹

On September 29, 2014, petitioners BMC and the Department of Health filed this Petition for Review on Certiorari³² before this Court. Petitioners claim that although Road Lot No. 3 has been open to vehicles and pedestrians as BMC's service road, it was never intended for use by the general public and was not owned by Naga City, as evidenced by the certification issued by the Office of the City Engineer of Naga City.³³

Petitioners assert that they have set up a gate on Road Lot No. 3, which is closed at night, on weekends, and during holidays for security reasons and for the welfare of patients and hospital staff.³⁴

Petitioners maintain that Dr. Nerva's closure of the road and relocation of the gate was in preparation for the construction of the Cancer Center Building.³⁵ Thus, the preliminary mandatory injunction issued by the Court of Appeals had the effect of halting construction of a government project, a violation of Presidential Decree No. 1818³⁶ and this Court's Administrative Circular No. 11-2000, which reiterated the prohibition on the issuance of injunctions in cases involving government infrastructure projects.³⁷

Petitioners claim that the ₱51,999,475.26 contract for the Cancer Center Building has been awarded to OCM Steel Corporation, the winning contractor, and the Notice to Proceed dated February 3, 2014 has been issued, signalling the mobilization stage of the construction of the Cancer Center Building.³⁸

Petitioners emphasize that the Court of Appeals erred in holding that the injunction over the relocation of the service road and closure of the gate did not violate Presidential Decree No. 1818 because the Cancer Center Building, a government project, will be constructed right where the gate stands.³⁹

Petitioners point out that the Cancer Center Building will be

³¹ Id. at 48.

³² Id. at 9-33.

³³ Id. at 11-12, 50.

³⁴ Id. at 12.

³⁵ Id. at 16.

³⁶ Prohibiting Courts from Issuing Restraining Orders or Preliminary Injunctions in Cases Involving Infrastructure and Natural Resource Development Projects of, and Public Utilities Operated by, the Government (1981).

³⁷ *Rollo*, pp. 17-18.

³⁸ Id. at 18.

³⁹ Id. at 20.

constructed along Road Lot No. 3; hence, there is a need to close this road due to the excavation and construction, which will make it dangerous for pedestrians and vehicles alike to pass through.⁴⁰

Petitioners likewise underscore that the intervenors, now respondents, failed to support their claim that Road Lot No. 3 was a public road⁴¹ or that they had a clear right to the injunctive relief prayed for.⁴² Furthermore, respondents also allegedly “failed to prove that the invasion of the[ir] right sought to be protected [was] material and substantial” and that there was an urgent necessity for the issuance of the writ to prevent serious damage.⁴³

Finally, petitioners applied for a temporary restraining order and/or writ of preliminary injunction to prevent the reopening of the gate since doing so would affect the construction of the Cancer Center Building.⁴⁴

On October 8, 2014, this Court issued two (2) Resolutions. The first Resolution⁴⁵ granted petitioners’ motion for extension to file their petition. The second Resolution⁴⁶ issued a temporary restraining order enjoining the implementation of the Court of Appeals February 28, 2014 Decision and August 26, 2014 Resolution, which directed the Regional Trial Court to issue a writ of mandatory preliminary injunction on the closure of Road Lot No. 3. The second Resolution also required respondents to comment on the petition.⁴⁷

On January 13, 2015, respondents filed their Comment on the Petition,⁴⁸ where they disputed petitioners’ claim that Road Lot No. 3 was always a component or service road of BMC. Respondents contend that Road Lot No. 3 existed as a public road long before any hospital was constructed on it and assert that it remains to be a public road to this day.⁴⁹

Respondents also dispute petitioners’ claim that the road closure was for the construction of the Cancer Center Building since Dr. Nerva’s memorandum was for no other purpose than to reroute traffic within the hospital complex.⁵⁰

Respondents likewise point out that when they filed their intervention

⁴⁰ Id. at 21.

⁴¹ Id. at 21–22.

⁴² Id. at 22–23.

⁴³ Id. at 25–26.

⁴⁴ Id. at 27–29.

⁴⁵ Id. at 64.

⁴⁶ Id. at 65–68.

⁴⁷ Id. at 65.

⁴⁸ Id. at 103–113.

⁴⁹ Id. at 104–105.

⁵⁰ Id. at 105.

before the Regional Trial Court and their petition before the Court of Appeals, there were still no plans to construct the Cancer Center Building. Furthermore, BMC allegedly failed to support its claim that there were indeed plans to build the Cancer Center Building.⁵¹ Nonetheless, respondents explain that they are not against its construction but are merely asking that it not be illegally built on a public road.⁵²

Finally, respondents ask that this Court lift its issued temporary restraining order against the assailed Court of Appeals Decision and Resolution.⁵³

In its Resolution⁵⁴ dated February 25, 2015, this Court noted respondents' comment and denied their prayer to lift the temporary restraining order. It likewise directed petitioners to file their reply to the comment.

In their Reply,⁵⁵ petitioners reiterate their stand that Road Lot No. 3 is a private property.⁵⁶ Petitioners also rebut respondents' assertion that they only belatedly brought up the construction of the Cancer Center Building because this project was nonexistent.⁵⁷ Petitioners attached photos⁵⁸ to prove that the construction of the Cancer Center Building was in progress.⁵⁹

The single issue to be resolved by this Court is whether or not the Court of Appeals erred in directing the Regional Trial Court to issue a writ of preliminary injunction on the closure of Road Lot No. 3.

The Petition is meritorious.

I

*Department of Public Works and Highways v. City Advertising Ventures Corp.*⁶⁰ defined a writ of preliminary injunction as follows:

[A] writ of preliminary injunction is an ancillary and interlocutory order issued as a result of an impartial determination of the context of both

⁵¹ Id. at 106–107.

⁵² Id. at 107.

⁵³ Id. at 110.

⁵⁴ Id. at 115–116.

⁵⁵ Id. at 132–142.

⁵⁶ Id. at 134.

⁵⁷ Id. at 135.

⁵⁸ Id. at 171–175.

⁵⁹ Id. at 138.

⁶⁰ G.R. No. 182944, November 9, 2016
<<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/november2016/182944.pdf>>
[Per J. Leonen, Second Division]

parties. It entails a procedure for the judge to assess whether the reliefs prayed for by the complainant will be rendered moot simply as a result of the parties' having to go through the full requirements of a case being fully heard on its merits. Although a trial court judge is given a latitude of discretion, he or she cannot grant a writ of injunction if there is no clear legal right materially and substantially breached from a *prima facie* evaluation of the evidence of the complainant. Even if this is present, the trial court must satisfy itself that the injury to be suffered is irreparable.⁶¹

A writ of preliminary injunction is issued to:

[P]reserve the *status quo ante*, upon the applicant's showing of two important requisite conditions, namely: (1) the right to be protected exists *prima facie*, and (2) the acts sought to be enjoined are violative of that right. It must be proven that the violation sought to be prevented would cause an irreparable injustice.⁶²

Rule 58, Section 3 of the Rules of Court provides the instances when a writ of preliminary injunction may be issued:

Section 3. Grounds for issuance of preliminary injunction. — A preliminary injunction may be granted when it is established:

- (a) That 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;
- (b) That 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) That 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.

Jurisprudence has likewise established that the following requisites must be proven first before a writ of preliminary injunction, whether mandatory or prohibitory, may be issued:

- (1) The applicant must have a clear and unmistakable right to be protected, that is a right *in esse*;

⁶¹ Id. at 13.

⁶² *Philippine National Bank v. Castalloy Technology Corporation*, 684 Phil 438, 445 (2012) [Per J. Reyes, Second Division] citing *Los Baños Rural Bank, Inc. v. Africa*, 433 Phil. 930, 935 (2002) [Per J. Panganiban, Third Division]. See also *Power Sites and Signs, Inc. v. United Neon*, 620 Phil. 205, 217 (2009) [Per J. Del Castillo, Second Division].

- (2) There is a material and substantial invasion of such right;
- (3) There is an urgent need for the writ to prevent irreparable injury to the applicant; and
- (4) No other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury.⁶³

In satisfying these requisites, the applicant for the writ need not substantiate his or her claim with complete and conclusive evidence since only *prima facie* evidence⁶⁴ or a sampling is required “to give the court an idea of the justification for the preliminary injunction pending the decision of the case on the merits.”⁶⁵

*Tan v. Hosana*⁶⁶ defines *prima facie* evidence as evidence that is “good and sufficient on its face. Such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party’s claim or defense and which if not rebutted or contradicted, will remain sufficient.”⁶⁷

*Spouses Nisce v. Equitable PCI Bank*⁶⁸ then discussed the requisites and the proof required for the issuance of a writ of preliminary injunction:

The plaintiff praying for a writ of preliminary injunction must further establish that he or she has a present and unmistakable right to be protected; that the facts against which injunction is directed violate such right; and there is a special and paramount necessity for the writ to prevent serious damages. In the absence of proof of a legal right and the injury sustained by the plaintiff, an order for the issuance of a writ of preliminary injunction will be nullified. Thus, *where the plaintiff’s right is doubtful or disputed, a preliminary injunction is not proper*. The possibility of irreparable damage without proof of an actual existing right is not a ground for a preliminary injunction.

However, to establish the essential requisites for a preliminary injunction, the evidence to be submitted by the plaintiff need not be conclusive and complete. The plaintiffs are only required to show that they have an ostensible right to the final relief prayed for in their complaint. A writ of preliminary injunction is generally based solely on initial or incomplete evidence. Such evidence need only be a sampling intended merely to give the court an evidence of justification for a preliminary injunction pending the decision on the merits of the case, and is not conclusive of the principal action which has yet to be decided.⁶⁹

⁶³ *St. James College of Parañaque v. Equitable PCI Bank*, 641 Phil. 452, 466 (2010) [Per J. Velasco, Jr., First Division] citing *Biñan Steel Corporation v. Court of Appeals*, 439 Phil. 688, 703–704 (2002) [Per J. Corona, Third Division] and *Hutchison Ports Philippines Ltd. v. Subic Bay Metropolitan Authority*, 393 Phil. 843, 859 (2000) [Per J. Ynares-Santiago, First Division].

⁶⁴ *Republic v. Evangelista*, 504 Phil. 115, 123 (2005) [Per J. Puno, Second Division], citing *Buayan Cattle Co., Inc. v. Quintillan*, 213 Phil. 244, 254 (1984) [Per J. Makasiar, Second Division].

⁶⁵ *Olalia v. Hizon*, 274 Phil 66, 72 (1991) [Per J. Cruz, First Division].

⁶⁶ G.R. No. 190846. February 3, 2016, 783 SCRA 87 [Per J. Brion, Second Division]

⁶⁷ *Id.* at 101 citing *Wa-acon v. People*, 539 Phil. 485 (2006) [Per J. Velasco, Third Division].

⁶⁸ 545 Phil. 138 (2007) [Per J. Callejo, Sr., Third Division].

⁶⁹ *Id.* at 160–161.

(Emphasis supplied, citations omitted)

To prove its clear legal right over the remedy being sought, Naga City presented before the trial court the 1970s Revised Assessor's Tax Mapping Control Roll and its Identification Map which both identified Road Lot No. 3 as being in the name of the Province of Camarines Sur.⁷⁰ Witnesses' testimonies were also presented to corroborate Naga City's claims of the public nature of Road Lot No. 3.⁷¹

Respondents claimed that as members of the general public, they had every right to use Road Lot No. 3, a public road.⁷²

On the other hand, BMC presented TCT No. 13693,⁷³ which covered a total land area of 53,890m² within Barrio Concepcion, Naga City with the Ministry of Health, now Department of Health, as the registered owner. It is not disputed that Road Lot No. 3 is part of the property covered by TCT No. 13693.

BMC likewise presented a certification⁷⁴ from the City Engineer of Naga City which read:

This is to certify that the road from Panganiban Drive up to the entrance and exit gate of Bicol Medical Center is not included in the list of Inventory of City Road[s] of Naga City.

Given this 14th day of December 2012 for record and reference purposes.⁷⁵

A careful reading of the records convinces this Court that respondents failed to establish *prima facie* proof of their clear legal right to utilize Road Lot No. 3. Whatever right they sought to establish by proving the public nature of Road Lot No. 3 was rebutted by the Department of Health's certificate of title and the City Engineer's categorical statement that "the road from Panganiban Drive up to the entrance and exit gate of [BMC] was not included in the list" of city roads under Naga City's control.⁷⁶

Instead of merely relying on a tax map and claims of customary use, Naga City or respondents should have presented a clear legal right to support their claim over Road Lot No. 3.

⁷⁰ *Rollo*, p. 38.

⁷¹ *Id.* at 39.

⁷² *Id.* at 104.

⁷³ *Id.* at 49.

⁷⁴ *Id.* at 50.

⁷⁵ *Id.*

⁷⁶ *Id.*

*Executive Secretary v. Forerunner Multi Resources, Inc.*⁷⁷ explained that a clear legal right which would entitle the applicant to an injunctive writ “contemplates a right ‘clearly founded in or granted by law.’ Any hint of doubt or dispute on the asserted legal right precludes the grant of preliminary injunctive relief.”⁷⁸

Absent a particular law or statute establishing Naga City’s ownership or control over Road Lot No. 3, the Department of Health’s title over the BMC compound must prevail over the unsubstantiated claims of Naga City and respondents. Department of Health’s ownership over Road Lot No. 3, with the concomitant right to use and enjoy this property, must be respected.

Respondents likewise cannot rely on the supposed customary use of Road Lot No. 3 by the public to support their claimed right of unfettered access to the road because customary use is not one (1) of the sources of legal obligation;⁷⁹ hence, it does not ripen into a right.

II

This Court finds that the Court of Appeals erred in limiting *prima facie* evidence merely to the evidence presented by Naga City and respondents and in disregarding altogether petitioners’ evidence,⁸⁰ which had the effect of squarely rebutting Naga City and respondents’ assertions. The Court of Appeals failed to appreciate the nature of the ancillary remedy of a writ of preliminary injunction as against the *ex parte* nature of a temporary restraining order.

During the hearing for the application for writ of preliminary injunction, the trial court correctly weighed the evidence presented by both parties before dismissing Naga City’s application:

On 21 December 2012, the court *a quo* handed down the first assailed Order denying the application for injunctive relief. According to said court, Naga City failed to comply with the jurisprudential requirements for the issuance of said injunction, to wit: 1) the right of the complainant is clear and unmistakable; 2) the invasion of the right is material and substantial; and 3) urgent and permanent necessity for the writ to prevent serious damage.

⁷⁷ 701 Phil 64 (2013) [Per J. Carpio, Second Division].

⁷⁸ *Id.* at 69, citing *Boncodin v. National Power Corporation Employees Consolidated Union (NECU)*, 534 Phil. 741, 754 (2006) [Per C.J. Panganiban, En Banc] and *Spouses Arcega v. Court of Appeals*, 341 Phil. 166 (1997) [Per J. Romero, Second Division].

⁷⁹ CIVIL CODE, art. 1157 provides:
Article 1157. Obligations arise from:
(1) Law;
(2) Contracts;
(3) Quasi-contracts;
(4) Acts or omissions punished by law; and
(5) Quasi-delicts.

⁸⁰ *Rollo*, pp. 42–43.

Anent the first requirement, the court *a quo* noted that even on the assumption that the 1970's Revised Assessor's Tax Mapping Control Roll and its Identification Map were both authentic documents, *the same would not overcome BMC's ownership of the property as evidenced by its title. BMC's title covers all property within its bounds, which naturally included Road Lot No. 3.*

The court *a quo* thereafter proceeded to conclude that since Naga City failed to clearly establish its right over the said road, then logically, it would not also be able to show compliance with the second requisite, which necessitates a material and substantial invasion of such right.

On the third requirement, the court *a quo* took into consideration the testimonies of two of the herein petitioners, Eliza M. Quilon (hereinafter Quilon) and Josefina F. Esplana (hereinafter Esplana), who both have businesses in the area and who said that their respective enterprises started suffering from losses after the closure of Road Lot No. 3. However, according to the court *a quo*, the losses of Quilon and Esplana hardly qualify as irreparable injury required by jurisprudence in granting the writ of preliminary injunction. This is so, as the court declared, because the alleged business losses that had been purportedly caused by the closure of Road Lot No. 3 were easily subject to mathematical computation.⁸¹ (Emphasis supplied)

Writs of preliminary injunction are granted only upon prior notice to the party sought to be enjoined and upon their due hearing. Rule 58, Section 5 of the Rules of Court provides:

Section 5. Preliminary injunction not granted without notice; exception. – No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue *ex parte* a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

However, and subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-sala court or the presiding judge of a single sala court may issue *ex parte* a temporary restraining order effective for only seventy-two (72) hours from issuance but he shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be

⁸¹ Id. at 38-39.

extended until the application for preliminary injunction can be heard. In no case shall the total period of effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two hours (72) hours provided herein.

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed, automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining order issued by the Supreme Court or a member thereof shall be effective until further orders.

Thus, Rule 58 requires “a full and comprehensive hearing for the determination of the propriety of the issuance of a writ of preliminary injunction,”⁸² giving the applicant an opportunity to prove that great or irreparable injury will result if no writ is issued and allowing the opposing party to comment on the application.

On the other hand, a temporary restraining order that is heard only with the evidence presented by its applicant is *ex parte*, but it is issued to preserve the status quo until the hearing for preliminary injunction can be conducted. *Miriam College Foundation, Inc v. Court of Appeals*⁸³ explained the difference between preliminary injunction and a restraining order as follows:

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, agency or a person to perform to refrain from performing a particular act or acts. As an extraordinary remedy, injunction is calculated to preserve or maintain the status quo of things and is generally availed of to prevent actual or threatened acts, until the merits of the case can be heard. A preliminary injunction persists until it is dissolved or until the termination of the action without the court issuing a final injunction.

The basic purpose of restraining order, on the other hand, is to preserve the status quo until the hearing of the application for preliminary injunction. Under the former \hat{A} §5, Rule 58 of the Rules of Court, as amended by \hat{A} §5, Batas Pambansa Blg. 224, a judge (or justice) may issue a temporary restraining order with a limited life of twenty days from date of issue. If before the expiration of the 20-day period the application for preliminary injunction is denied, the temporary order would thereby be deemed automatically vacated. If no action is taken by the judge on the application for preliminary injunction within the said 20 days, the temporary restraining order would automatically expire on the 20th day by

⁸² *Spouses Lago v. Abul*, 654 Phil 479, 490 (2011) [Per J. Nachura, Second Division].

⁸³ 401 Phil 431 (2000) [Per J. Kapunan, First Division].

the sheer force of law, no judicial declaration to that effect being necessary. In the instant case, no such preliminary injunction was issued; hence, the TRO earlier issued automatically expired under the aforesaid provision of the Rules of Court.⁸⁴ (Citations omitted)

It is true that some issues are better threshed out before the trial court, such as if the donation to the Department of Health by the Camarines Sur Provincial Government contained an encumbrance for the public to continue using Road Lot No. 3, or the validity of this donation.⁸⁵ The Court of Appeals, however, erred when it completely disregarded the evidence presented by petitioners, reasoning out that the question of whether or not Naga City's evidence should prevail over BMC's title over the property was supposedly a factual matter that should be threshed out in the trial court.⁸⁶

By focusing solely on Naga City and respondents' evidence to determine if there was *prima facie* evidence to issue the writ of preliminary injunction while the case was being heard in the lower court, the Court of Appeals misappreciated the nature of a writ of preliminary injunction. To reiterate, a preliminary injunction is an ancillary remedy issued after due hearing where both parties are given the opportunity to present their respective evidence. Thus, both their evidence should be considered.

As it is, absent a finding of grave abuse of discretion, there was no reason for the Court of Appeals to reverse the trial court's denial of respondents' application for the issuance of a writ of preliminary injunction. Respondents were unable to present *prima facie* evidence of their clear and unmistakable right to use Road Lot No. 3.

WHEREFORE, this Court resolves to **GRANT** the Petition. The assailed February 28, 2014 Decision and August 26, 2014 Resolution of the Court of Appeals in CA-G.R. SP No. 129806 are **REVERSED** and **SET ASIDE**.

The temporary restraining order issued by this Court in its October 8, 2014 Resolution is made **PERMANENT**.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

⁸⁴ Id. at 447-448.

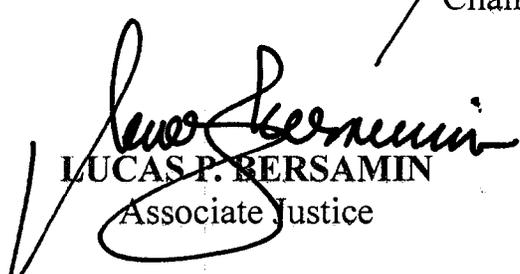
⁸⁵ *Rollo*, pp. 42-43.

⁸⁶ Id. a 42.

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



SAMUEL R. MARTIRES
Associate Justice



ALEXANDER G. GASMUNDO
Associate Justice

ATTESTATION

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.



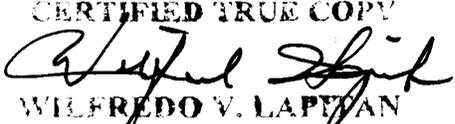
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

JAN 05 2018