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Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**THE BUREAU OF CUSTOMS,  
HON. ANGELITO A. ALVAREZ, as  
Commissioner of Customs, and  
ATTY. ANJU NEREO C.  
CASTIGADOR, in his capacity as the  
OIC-District Collector of Customs-  
Port of Davao,**

**G.R. No. 192809**

*Petitioners,*

- versus -

**COURT OF APPEALS-CAGAYAN  
DE ORO STATION, and RODOLFO  
C. RETA, doing business under the  
name and style ACQUARIUS  
CONTAINER YARD,**

*Respondents.*

X-----X

**ATTY. ANJU NEREO C.  
CASTIGADOR, as OIC-District  
Collector of Customs-Port of Davao,**

**G.R. Nos. 193588 and 193590-91**

*Petitioner,*

- versus -

**HON. GEORGE E. OMELIO, as  
Presiding Judge, Branch 14, RTC-  
Davao City, and RODOLFO C.  
RETA, doing business under the  
name and style ACQUARIUS  
CONTAINER YARD,**

*Respondents.*

X-----X

**THE BUREAU OF CUSTOMS,  
HON. ROZZANO RUFINO B.  
BLAZON, in his capacity as the  
Commissioner of Customs, and  
ATTY. MARTINIANO B.  
BANGCOY, in his capacity as  
District Collector of Customs-Port of  
Davao,**

*Petitioners,*

**G.R. No. 201650**

Present:

LEONEN, J.,  
*Chairperson,*  
HERNANDO,  
INTING,  
DELOS SANTOS, and  
LOPEZ J. Y., JJ.

- versus -

**RODOLFO C. RETA, doing business  
under the name and style  
ACQUARIUS CONTAINER YARD,  
*Respondent.***

Promulgated:

April 26, 2021

Misdebat

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**DECISION**

**HERNANDO, J.:**

These consolidated Petitions<sup>1</sup> assail various promulgations of the Court of Appeals (CA) in CA-G.R. SP No. 03568, and the Regional Trial Court (RTC), Davao City, Branch 14 in Civil Case Nos. 33,275-10, 33,477-10, and 33,478-10, all of which stemmed from the Complaint with Application for Preliminary Injunction and Prayer for a Temporary Restraining Order<sup>2</sup> filed by private respondent Rodolfo C. Reta (Reta) against petitioners Bureau of Customs (BOC) and Atty. Anju Nereo C. Castigador (Atty. Castigador), the District Collector of the Bureau of Customs - Port of Davao (collectively, petitioners), before the RTC.

Assailed in G.R. No. 192809<sup>3</sup> is the July 22, 2010 Resolution<sup>4</sup> in CA-G.R. SP No. 03568, which denied petitioners' prayer for issuance of a writ of preliminary injunction to enjoin the implementation of the April 19, 2010 Order<sup>5</sup> of the RTC (which granted Reta's prayer for issuance of a writ of preliminary injunction).

<sup>1</sup> Petitions for *Certiorari* in G.R. No. 192809, and 193588 & 193590-91; Petition for Review on *Certiorari* in G.R. No. 201650.

<sup>2</sup> *Rollo*, vol. I (G.R. No. 192809), pp. 96-109. Filed on March 1, 2010.

<sup>3</sup> *Id.* at 2-81. The petition is entitled "Petition (With Urgent Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction and Motion for the Conduct of Special Raffle)." Filed on July 27, 2010.

<sup>4</sup> *Id.* at 83-85. Penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Romulo V. Borja and Rodrigo F. Lim, Jr.

<sup>5</sup> *Id.* at 86-88. Penned by Presiding Judge George E. Omelio.

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In G.R. Nos. 193588 & 193590-91,<sup>6</sup> Atty. Castigador assails the September 16, 2010 Omnibus Order<sup>7</sup> of the RTC in Civil Case Nos. 33,275-10, 33,477-10, and 33,478-10, and the corresponding Warrant of Arrest<sup>8</sup> dated September 17, 2010. In the Omnibus Order, the trial court denied Atty. Castigador's motion for inhibition of Presiding Judge George E. Omelio (Judge Omelio), granted Reta's petitions for indirect contempt against Atty. Castigador, and ordered his arrest for alleged continued defiance of the RTC's April 19, 2010 Order.

In G.R. No. 201650,<sup>9</sup> petitioners assail the January 17, 2012 Decision<sup>10</sup> and April 17, 2012 Resolution<sup>11</sup> in CA-G.R. SP No. 03568 dismissing their Petition for *Certiorari* challenging the April 19, 2010 Order<sup>12</sup> of the RTC.

### **Factual Antecedents:**

#### **a) Facts Common to the Cases:**

Reta is the owner and operator of Acquarius Container Yard (ACY).<sup>13</sup> ACY's operation as a container yard outside the customs territory has been approved by the BOC in 2006.<sup>14</sup>

On January 9, 2009, Reta entered into a Memorandum of Agreement<sup>15</sup> (MOA) with the BOC for the free use of his container yard, ACY, located in Davao City<sup>16</sup> as the designated examination area for the container vans in the Port of Davao for a period of 25 years.<sup>17</sup> The MOA also provided that the parties may revoke it for cause at any time.<sup>18</sup>

BOC claimed that on February 26, 2010, Reta closed the container yard and barred customs examiners from entering the premises.<sup>19</sup> On the same date, Atty. Castigador informed Reta, through a letter, of his intention to conduct the examination of the container vans at the Philippine Ports Authority (PPA)

<sup>6</sup> *Rollo* (G.R. Nos. 193588 & 193590-91), pp. 6-50. The petition is entitled "Petition (With Urgent Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction). Filed on September 22, 2010.

<sup>7</sup> *Id.* at 51-53. Penned by Presiding Judge George E. Omelio.

<sup>8</sup> *Id.* at 54-55.

<sup>9</sup> *Rollo* (G.R. No. 201650), pp. 8-80. Filed on June 18, 2012.

<sup>10</sup> *Id.* at 82-91. Penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Romulo V. Borja and Pamela Ann Abella Maxino.

<sup>11</sup> *Id.* at 93-95. Penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Romulo V. Borja and Pedro B. Corales.

<sup>12</sup> *Id.* at 317-319; *supra* note 5.

<sup>13</sup> *Id.* at 104.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 96-99.

<sup>16</sup> *Id.* at 83.

<sup>17</sup> *Id.* at 83-84.

<sup>18</sup> *Id.* at 84, 97.

<sup>19</sup> *Id.* at 84.

premises in Sasa, Davao City, and to reexamine the MOA as its purpose no longer exists.<sup>20</sup>

This prompted Reta to file a Complaint with Application for Preliminary Injunction and Prayer for a Temporary Restraining Order against petitioners. Reta claimed that after the BOC agreed to use ACY as the designated examination area, he invested in various machineries and equipment for the examination and inspection of container vans.<sup>21</sup> He denied closing the container yard; he alleged that it was Atty. Castigador who directed the stoppage of the hauling and scanning of the container vans in ACY.<sup>22</sup>

The Complaint prayed: (a) for the issuance of a restraining order or injunctive relief; (b) for the nullification of Atty. Castigador's February 26, 2010 letter for being issued without due process and in violation of the MOA; (c) for petitioners to respect and perform their obligations under the MOA; and, (d) for the payment of damages, attorney's fees, and costs of suit.<sup>23</sup>

The Executive Judge of the RTC issued a temporary restraining order (TRO) prohibiting the BOC from removing the container vans in ACY and directing the BOC to resume its operations inside ACY.<sup>24</sup> After raffle of the case, Presiding Judge Emmanuel C. Carpio (Judge Carpio) of RTC Branch 14 extended the TRO for another 17 days.<sup>25</sup>

Subsequently, the BOC, through a letter dated March 5, 2010, revoked the MOA and informed Reta that it will continue to conduct examination at the PPA premises, citing strained relations between the parties arising from Reta's closure of the container yard and filing of baseless suits against the BOC, and the subsequent availability of space for the conduct of examination at the PPA premises.<sup>26</sup> In this connection, BOC filed with the RTC Manila a petition for judicial confirmation of the existence of just cause to terminate the MOA.<sup>27</sup>

Meanwhile, on March 19, 2010, Judge Carpio denied Reta's application for the issuance of a writ of preliminary injunction.<sup>28</sup>

Reta then moved for the inhibition of Judge Carpio from further hearing the case, which motion was granted. The case was re-raffled to Judge Omelio

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<sup>20</sup> Id. at 84, 102.

<sup>21</sup> Id. at 84.

<sup>22</sup> Id.

<sup>23</sup> Id. at 114-115.

<sup>24</sup> Id. at 85.

<sup>25</sup> Id.

<sup>26</sup> Id. at 60-62, 85, 203-207

<sup>27</sup> *Rollo* (G.R. Nos. 193588 & 193590-91), p. 20.

<sup>28</sup> *Rollo* (G.R. No. 201650), p. 85, 260-262.

of RTC Branch 14.<sup>29</sup> Now under a different judge, Reta moved for the reconsideration of the March 19, 2010 RTC Order.<sup>30</sup>

On April 16, 2010, petitioners filed their Answer to the Complaint.<sup>31</sup>

On April 19, 2010, Judge Omelio issued the assailed Order setting aside the March 19, 2010 Order of Judge Carpio. The April 19, 2010 Order granted the issuance of a writ of preliminary injunction against petitioners, prohibited them from closing the designated examination area in ACY and from revoking the MOA with Reta.<sup>32</sup> The said Order also directed the BOC to resume operations inside Reta's container yard.<sup>33</sup> The dispositive portion of the April 19, 2010 Order of the RTC reads:

**WHEREFORE**, and in view of all the foregoing consideration, the instant motion of the plaintiff is hereby **GRANTED**. The Order of the Court dated **MARCH 19, 2010** is **SET ASIDE**.

Let [a] writ of preliminary injunction issue against herein defendants, their assigns or entities acting in their behalf to cease and desist "from implementing the closure of the designated examination area (DEA) at Aquari[u]s Container Yard as well as the revocation of the subject memorandum agreement and to continue the enforcement and implementation of the same by conducting the examination of shipments as contained in the defendant collector's notice of February 26, 2010 not at the PPA designated area at Sasa Wharf but at the Aquari[u]s Container Yard, and ordering further the defendants, their agents and assigns to observe the status quo ante litem mutam, to conduct all examination of Laden Containers at the DEA of ACY as provided in the subject Memorandum of Agreement, and for the plaintiff to resume its operation and render the usual and proper services in hustling[,] stripping/stiffing and left-on/lift-off [sic] and other allied services," pending trial on the merit[s] of this case.

Plaintiff is ordered to post injunctive bond in favor of the defendants in the event the Court finds after trial on the merit[s] that the former is not entitled to the injunctive relief prayed for, in the amount of P1,000,000.00.

The Sheriff of this Court is directed to serve and implement the writ and make return of his proceeding pursuant to the rules.

SO ORDERED.<sup>34</sup>

Aggrieved, petitioners filed a Petition for *Certiorari* with the CA assailing the April 19, 2010 RTC Order. The Petition was supplemented by a

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<sup>29</sup> Id.

<sup>30</sup> Id. at 29, 267-296.

<sup>31</sup> Id. at 86.

<sup>32</sup> Id. at 86, 317-319.

<sup>33</sup> Id.

<sup>34</sup> Id. at 318-319; *Rollo*, vol. I (G.R. No. 192809), pp. 87-88.

prayer for the issuance of a writ of preliminary injunction to prevent the RTC from enforcing the assailed Order.

**G.R. No. 192809:**

In its July 22, 2010 Resolution, the appellate court denied petitioners' application for injunctive relief, and ordered the filing of pleadings subsequent to the Petition for *Certiorari*. The CA found no urgent need to issue the writ of preliminary injunction.<sup>35</sup> Likewise, it directed the BOC to continue with the conduct of its operations inside the ACY premises.<sup>36</sup>

Petitioners thus filed a Petition for *Certiorari* before this Court imputing grave abuse of discretion on the part of the CA in issuing its July 22, 2010 Resolution. They argue that: (a) the CA Resolution did not indicate the facts and law upon which it is based; (b) the CA Resolution upheld injustices brought by the RTC Order as the courts have no jurisdiction to restrain the performance of a purely BOC function, which is the management of the designated examination area; (c) the RTC's issuance of a writ of preliminary injunction is not proper as the requirements were not met — petitioners did not violate any of Reta's rights as it was not the BOC, but Reta who closed and prevented access to the designated examination area; (d) courts cannot issue an injunctive writ that would effectively dispose of the main case without trial; (e) the MOA between the parties has been validly revoked as of March 5, 2010, making the application for injunctive relief baseless; (f) Judge Omelio acted with manifest partiality and bias in favor of Reta to the prejudice of the BOC; and, (g) Reta willfully and maliciously made untruthful statements to put the BOC in a bad light and lay the blame on them for the closure of ACY.<sup>37</sup> Petitioners pray that the July 22, 2010 Resolution be set aside and for the issuance of a TRO and writ of preliminary injunction to prevent the enforcement of the said CA Resolution, citing irreparable damage to the BOC and the government.<sup>38</sup>

In a Resolution dated August 4, 2010, this Court resolved to dismiss the Petition for petitioners' failure to sufficiently show that any grave abuse of discretion was committed by the CA.<sup>39</sup>

This Court, however, in its Resolution dated October 6, 2010, granted the BOC's Motion for Reconsideration<sup>40</sup> and reinstated the Petition.<sup>41</sup> On the same date, the Court also issued a status quo ante order requiring the parties to

<sup>35</sup> *Rollo* (G.R. No. 201650), p. 85, 260-262, p. 84.

<sup>36</sup> *Id.* at 84-85.

<sup>37</sup> *Id.* at 2-67.

<sup>38</sup> *Id.* at 67-76.

<sup>39</sup> *Id.* at 614.

<sup>40</sup> *Rollo*, vol. II (G.R. No. 192809), pp. 627-679.

<sup>41</sup> *Id.* at 680.

observe the status quo prevailing before the issuance of the April 19, 2010 Order of the RTC — the conduct of examination in the PPA premises in Sasa Wharf, Davao City.<sup>42</sup> The pertinent portion of the status quo ante order reads:

ACCORDINGLY, THE BUREAU OF CUSTOMS MAY CONTINUE TO CONDUCT THE EXAMINATION OF LADEN CONTAINERS AT THE DESIGNATED AREA IN THE PHILIPPINE PORTS AUTHORITY (PPA) AT SASA WHARF, DAVAO CITY.<sup>43</sup>

In his Comment<sup>44</sup> in G.R. No. 192809, Reta alleges that: (a) the Petition was defective and premature because petitioners did not file a pre-requisite motion for reconsideration in the CA, and that the Petition does not fall under the exceptions from the requirement of filing thereof; (b) Petitioners engaged in forum shopping, thereby warranting dismissal of the instant Petition, as the main petition and the main case were still pending in the CA and the RTC, respectively; and, (c) the CA did not commit grave abuse of discretion in issuing the July 22, 2010 Resolution.

On October 13, 2010, this Court issued a Resolution granting the BOC's motion to consolidate G.R. No. 192809 with G.R. Nos. 193588 and 193590-91.<sup>45</sup>

Petitioners filed a Consolidated Reply. For G.R. No. 192809, they argue that: (a) due to the urgent necessity for the resolution of the instant case, the Petition may be considered as an exception from the rule of prior filing of a motion for reconsideration; (b) there is no forum shopping as the filing of a petition for *certiorari* is allowed by the Rules of Court; and, (c) the appellate court committed grave abuse of discretion in issuing the July 22, 2010 Resolution.<sup>46</sup>

#### **G.R. Nos. 193588 and 193590-91:**

Meanwhile in the RTC proceedings, Atty. Castigador moved for the inhibition of Judge Omelio. Reta also filed two petitions for indirect contempt against Atty. Castigador for the latter's alleged failure to comply with the RTC's April 19, 2010 Order.<sup>47</sup>

Consequently, on September 16, 2010, the RTC issued an Omnibus Order denying Atty. Castigador's motion for inhibition, and granting Reta's

<sup>42</sup> Id. Status Quo Ante Order at pp. 682-684.

<sup>43</sup> Id. at 683.

<sup>44</sup> Id. at 753-803.

<sup>45</sup> Id. at 690-698, 751-752. *Rollo* (G.R. Nos. 193588 & 193590-91), pp. 382-383.

<sup>46</sup> *Rollo*, vol. II (G.R. No. 192809), pp. 881-907.

<sup>47</sup> *Rollo* (G.R. Nos. 193588 & 193590-91), pp. 23-25.

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petitions for indirect contempt.<sup>48</sup> In this connection, the RTC issued a warrant for the arrest of Atty. Castigador.<sup>49</sup>

Hence, Atty. Castigador filed a Petition for *Certiorari* and Prohibition straight to this Court attributing grave abuse of discretion on the part of the RTC in issuing the Omnibus Order and Warrant of Arrest. He claims that: (a) the RTC denied him due process as he was not afforded the opportunity to be heard and to defend himself prior to the issuance of the Omnibus Order and Warrant of Arrest; (b) the Omnibus Order did not indicate the factual bases to cite him for indirect contempt; and, (c) Judge Omelio exhibited bias and partiality in favor of Reta in handling the case.<sup>50</sup>

On October 15, 2010, Judge Omelio issued an Order voluntarily inhibiting himself from the case and recalling the Warrant of Arrest of Atty. Castigador.<sup>51</sup>

Reta then filed his Comment in G.R. Nos. 193588 & 193590-91 claiming that: (a) the Petition was defective and premature for failure of Atty. Castigador to file the prerequisite motion for reconsideration in the trial court, and that the Petition does not fall under the exceptions from the requirement of filing thereof; (b) Atty. Castigador did not observe the rule on hierarchy of courts when it elevated the case straight to this Court instead of the CA; (c) the Petition has become moot because Judge Omelio eventually inhibited himself and recalled the Warrant of Arrest in an Order dated October 15, 2010; and, (d) the trial court did not commit grave abuse of discretion in issuing the Omnibus Order.<sup>52</sup>

As stated, G.R. Nos. 193588 & 193590-91 were consolidated with G.R. No. 192809.<sup>53</sup>

Petitioners no longer discussed G.R. Nos. 193588 & 193590-91 in their Consolidated Reply pursuant to Judge Omelio's recantation of the assailed Omnibus Order.<sup>54</sup>

#### **G.R. No. 201650:**

On January 17, 2012, the CA rendered its Decision on the main case dismissing the Petition for *Certiorari* for lack of merit. It ruled that the trial court was justified in issuing the writ of preliminary injunction in favor of

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<sup>48</sup> Id. at 51-53.

<sup>49</sup> Id. at 54-55.

<sup>50</sup> Id. at 25-43.

<sup>51</sup> Id. at 427-428.

<sup>52</sup> Id. at 411-424.

<sup>53</sup> See note 44.

<sup>54</sup> *Rollo* (G.R. Nos. 193588 & 193590-91), pp. 601-604.

Reta.<sup>55</sup> It noted that the April 19, 2010 RTC Order prohibited the cancellation of the MOA to preserve the status quo.<sup>56</sup> The appellate court agreed with the RTC that the status quo should be maintained until the issue on the propriety of the cancellation of the MOA is finally determined after the trial.<sup>57</sup>

In issuing the writ, the trial court did not interfere with the BOC's functions as the latter can still conduct its operations in ACY. There was also no pre-judgment of the case as the writ was issued only as a preventive remedy to protect Reta's right to a final and effective relief during the pendency of the action.<sup>58</sup> Lastly, the appellate court ruled (but did not elaborate) that there was no grave abuse of discretion on the part of the trial court in issuing the April 19, 2010 Order.<sup>59</sup>

Petitioners moved for reconsideration but it was subsequently denied by the appellate court in its April 17, 2012 Resolution<sup>60</sup> holding that this Court's status quo ante order did not prevent it from resolving the case.<sup>61</sup>

Hence this Petition. Petitioners claim that the appellate court's Decision and Resolution contravened this Court's October 6, 2010 Resolution in G.R. No. 192809 on the issuance of a status quo ante order, as the CA should have deferred the resolution of the case.<sup>62</sup> They further claim that the appellate court misapprehended facts in stating that Reta invested machinery and equipment to be used in the designated examination area when in fact, it was the BOC that made the investment.<sup>63</sup> The appellate court erred in not finding grave abuse of discretion on the part of the trial court in issuing the writ of preliminary injunction because: (a) it amounted to an interference in the BOC's exercise of a purely customs function; (b) Reta has not demonstrated the existence of a right that has been violated by petitioners as it was actually the former who breached the MOA and closed the ACY premises; (c) Reta has not suffered any irreparable injury; (d) the grant of injunctive relief effectively resolved the case on the merits; and, (e) the MOA between BOC and Reta has been revoked.<sup>64</sup>

In Reta's Comment in G.R. No. 201650, he reiterated the findings of the appellate court and the trial court with regard to his entitlement to the injunctive relief.<sup>65</sup> The appellate court did not err in dismissing the petition

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<sup>55</sup> *Rollo* (G.R. No. 201650), p. 88.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 89.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 90.

<sup>60</sup> *Id.* at 93-95.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 38-40.

<sup>63</sup> *Id.* at 40-44.

<sup>64</sup> *Id.* at 46-62.

<sup>65</sup> *Id.* at 638-642.

despite this Court's status quo ante order.<sup>66</sup> Reta claims that the revocation of the MOA had no basis and the BOC did not afford him due process.<sup>67</sup> The BOC closed ACY and eventually revoked the MOA after the former reported the smuggling activities of a certain Rapzel General Merchandise.<sup>68</sup>

Reta claims that the BOC wants him out of the picture to prevent the exposure of the smuggling activities happening therein.<sup>69</sup> Reta also avers that the CA correctly dismissed the petition because Atty. Castigador had an administrative case in the Office of the Ombudsman that resulted to his dismissal from service and the recommendation of filing of criminal charges for violation of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act<sup>70</sup> against him.

Petitioners filed their Reply. They posit that Reta stated extraneous matters in his Comment that are irrelevant to the issues of the case, which pertain to the propriety of the injunctive relief the RTC granted in favor of Reta.<sup>71</sup> They add that Judge Omelio's reversal of the March 19, 2010 RTC Order, being issued by a different judge, violated judicial courtesy.<sup>72</sup> They reiterate their allegations in their Petition.

### Issue

Considering the foregoing, the remaining issue for the resolution of the Court is whether the CA erred in not finding grave abuse of discretion on the part of the RTC in issuing a writ of preliminary injunction in favor of Reta.

### Our Ruling

At the outset, the Court finds that G.R. No. 192809 has been mooted. Assailed therein is the July 22, 2010 CA Resolution denying petitioners' application for injunctive relief relative to the April 19, 2010 RTC Order. Hence, the July 22, 2010 Resolution is an interlocutory order the CA issued pending its decision on the main case. As shown, the main case in the appellate court has already been terminated by the promulgation of the January 17, 2012 Decision and April 17, 2012 Resolution, and is in fact already elevated to this Court in G.R. No. 201650. There is thus no reason for the Court to separately resolve G.R. No. 192809 as the issues raised therein will be addressed in resolving G.R. No. 201650.

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<sup>66</sup> Id. at 666-671.

<sup>67</sup> Id. at 644-645.

<sup>68</sup> Id. at 644-656.

<sup>69</sup> Id.

<sup>70</sup> Id. at 671-681. See the November 29, 2012 Decision and Resolution (the same date) of the Office of the Ombudsman at 684-707, 708-741.

<sup>71</sup> Id. at 755-756.

<sup>72</sup> Id. at 757.

Likewise, G.R. Nos. 193588 & 193590-91 have been mooted. Assailed therein is the September 16, 2010 Omnibus Order of the RTC that denied Atty. Castigador's motion for inhibition, and granted Reta's petitions for indirect contempt resulting to the issuance of a warrant for Atty. Castigador's arrest. However, this Omnibus Order was superseded by Judge Omelio's issuance of the October 15, 2010 Order voluntarily inhibiting himself from the case and recalling the Warrant of Arrest of Atty. Castigador. By reversing its own order, the trial court effectively granted Atty. Castigador's challenge of the Omnibus Order. As a result, there is no more controversy for this Court to resolve in G.R. Nos. 193588 & 193590-91.

What remains under litigation now is the Petition in G.R. No. 201650 which we find meritorious.

To recall, the trial court issued a writ of preliminary injunction in its Order dated April 19, 2010, prohibiting the BOC from closing the designated examination area in ACY, from revoking the MOA, and ordering them to resume operations in the ACY. The Order was appealed to the CA via a Petition for *Certiorari* which the appellate court dismissed finding no grave abuse of discretion on the part of the trial court.

Upon review of the records, we hold that the appellate court committed reversible error. Contrary to its findings, the trial court actually acted with grave abuse of discretion as Reta was not entitled to a writ of preliminary injunction.

A writ of preliminary injunction is a preservative remedy for the protection of substantial rights and interests.<sup>73</sup> It is not a cause of action itself, but a mere provisional remedy adjunct to a main suit.<sup>74</sup> It is 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 refrain from a particular act or acts; it may also require the performance of a particular act or acts, in which case it shall be known as a preliminary mandatory injunction.<sup>75</sup> It may be granted by the court where the action or proceeding is pending.<sup>76</sup> The purpose of injunction is to prevent threatened or continuous irremediable injury to the parties before their claims can be thoroughly studied, and its sole aim is to preserve the status quo until the merits of the case are fully heard.<sup>77</sup> The issuance of a writ of preliminary injunction is governed by Rule 58 of the Rules of Court.

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<sup>73</sup> *Philippine Charity Sweepstakes Office v. TMA Group of Companies Pty Ltd.*, G.R. Nos. 212143, 225457, & 236888, August 28, 2019.

<sup>74</sup> *Id.*

<sup>75</sup> Rules of Court, Rule 58, Sec. 1.

<sup>76</sup> Rules of Court, Rule 58, Sec. 2.

<sup>77</sup> *Philippine Charity Sweepstakes Office v. TMA Group of Companies Pty Ltd.*, *supra*, citing *Lukang v. Pagbilao Development Corporation*, 728 Phil. 608, 617 (2014).

Jurisprudence laid down the requisites for the issuance of a writ of preliminary injunction as follows: (a) the applicant must have a clear and unmistakable right to be protected, that is a right in *esse*; (b) there is a material and substantial invasion of such right; (c) there is an urgent need for the writ to prevent irreparable injury to the applicant; and, (d) no other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury.<sup>78</sup>

*Sumifru (Philippines) Corp. v. Spouses Cereño (Sumifru)*<sup>79</sup> discussed the concept of a clear and unmistakable right that may be protected by a writ of preliminary injunction, to wit:

A writ of preliminary injunction, being an extraordinary event, one deemed as a strong arm of equity or a transcendent remedy, must be granted only in the face of injury to actual and existing substantial rights. A right to be protected by injunction means a right clearly founded on or granted by law or is enforceable as a matter of law. An injunction is not a remedy to protect or enforce contingent, abstract, or future rights; it will not issue to protect a right not *in esse*, and which may never arise, or to restrain an act which does not give rise to a cause of action. When the complainant's right is doubtful or disputed, he does not have a clear legal right and, therefore, injunction is not proper. While it is not required that the right claimed by the applicant, as basis for seeking injunctive relief, be conclusively established, it is still necessary to show, at least tentatively, that the right exists and is not vitiated by any substantial challenge or contradiction.<sup>80</sup> (Citations omitted)

Before the courts may issue a writ of preliminary injunction, it is essential that the party seeking its issuance be able to establish the existence of a right to be protected. It must be a right that is actual, clear, and existing; not a mere contingent, abstract, or future right. Further, the invasion of that clear and unmistakable right must be material and substantial.

There must also be a showing of urgency to prevent irreparable injury on the part of the party seeking injunction. Injury is irreparable where there is no

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<sup>78</sup> *Shuley Mine, Inc. v. Department of Environment and Natural Resources*, G.R. No. 214923, August 28, 2019. Notably, Section 3, Rule 58 of the Rules of Court provides for grounds for the issuance of a writ of preliminary injunction:

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.

<sup>79</sup> 825 Phil. 743 (2018).

<sup>80</sup> *Id.* at 750-751.

standard by which its amount can be measured with reasonable accuracy.<sup>81</sup> *Philippine Charity Sweepstakes Office v. TMA Group of Companies Pty Ltd. (Philippine Charity Sweepstakes Office)*<sup>82</sup> discussed the unquantifiable nature of damages or injury for the issuance of a writ of preliminary injunction:

Here, any damage petitioner may suffer is easily subject to mathematical computation and, if proven, is fully compensable by damages. Thus, a preliminary injunction is not warranted. As previously held in *Golding v. Balatbat*, the writ of injunction —

should never issue when an action for damages would adequately compensate the injuries caused. The very foundation of the jurisdiction to issue the writ rests in the probability of irreparable injury, the inadequacy of pecuniary compensation, and the prevention of the multiplicity of suits, and where facts are not shown to bring the case within these conditions, the relief of injunction should be refused.<sup>83</sup>

To satisfy the requisites for the issuance of the writ, mere *prima facie* evidence is needed to establish the clear and unmistakable right, and the substantial and material invasion thereof; complete and conclusive proof is not needed.<sup>84</sup> Injunction should therefore not be issued “if there is no clear legal right materially and substantially breached from a *prima facie* evaluation of the evidence of the complainant.”<sup>85</sup>

It is well settled that the aggrieved party may challenge the issuance of a writ of preliminary injunction only on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the issuing court.<sup>86</sup> Grave abuse of discretion in the issuance of writs of preliminary injunction implies “a capricious and whimsical exercise of judgment that is equivalent to lack of jurisdiction, or where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice or personal aversion amounting 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.”<sup>87</sup>

In the instant case, the requisites for the issuance of a writ of preliminary injunction, as laid down, were not met.

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<sup>81</sup> *Id.* at 751.

<sup>82</sup> *Supra* note 73.

<sup>83</sup> *Id.* citing *Heirs of Yu v. Court of Appeals*, 717 Phil. 284, 301-302 (2013), and *Golding v. Balatbat*, 36 Phil. 941, 946 (1917).

<sup>84</sup> *Municipality of Famy, Laguna v. Municipality of Siniloan, Laguna*, G.R. No. 203806, February 10, 2020.

<sup>85</sup> *Id.*, citing *Bicol Medical Center v. Botor*, 819 Phil. 447, 457 (2017).

<sup>86</sup> See *Cahambing v. Espinosa*, 804 Phil. 412, 421 (2017).

<sup>87</sup> *Id.*

First, Reta has no clear and unmistakable right on the conduct of examination in ACY. The conduct of examination in ACY premises is governed by the MOA between Reta and the BOC. It is undisputed that the parties consented to the MOA which stipulated that any of the parties may revoke it for cause at any time before the end of its term.<sup>88</sup> On March 5, 2010, BOC has already revoked the MOA on the ground of strained relations due to Reta's closure of the ACY premises. The revocation was made before the issuance of the assailed RTC Order.

Revocation is clearly within the BOC's right as it is empowered to do so by the MOA. In fact, it filed a petition before the RTC Manila to confirm the existence of just cause in revoking the MOA. To stress though, the existence of just cause is outside the issues of the instant case and the Court should allow that petition before the RTC Manila to take its course. In addition, the legality of the revocation of the MOA may be addressed in the trial proper in RTC Davao. The subject of the instant case is just one of the incidents in the trial proper in the RTC that unfortunately reached this Court.

Therefore, as the BOC is empowered to revoke the MOA, Reta has no clear and unmistakable right on the continuation of customs operations in ACY premises. To reiterate the case of *Sumifru*, the right, to be clear and unmistakable, shall not be vitiated by substantial challenge or contradiction.<sup>89</sup> In this instance, the substantial challenge or contradiction to Reta's claimed right is the BOC's own right to revoke the MOA.

Second, it follows that there is no substantial or material invasion of Reta's right. As the right does not exist, there can be no substantial or material invasion thereof.

Third, the damage or injury allegedly sustained by Reta is not irreparable. As set out, the damages or injury suffered by the party applying for injunction must be unquantifiable. The Petition correctly pointed out that Reta was able to state in his Complaint an amount (*i.e.*, ₱100,000.00) pertaining to the loss of earnings he suffers for each day the BOC is not conducting examinations in ACY.<sup>90</sup> Therefore, the requisite of irreparable injury is not met.

Based on the foregoing, the issuance of a writ of preliminary injunction in favor of Reta is not proper. Plainly, the RTC gravely abused its discretion in issuing the writ because Reta is not entitled thereto.

The BOC and Atty. Castigador argued in the CA that it should defer resolution of the case pursuant to this Court's Status Quo Ante Order in G.R.

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<sup>88</sup> *Rollo*, (G.R. No. 201650), p. 97.

<sup>89</sup> *Sumifru (Philippines) Corp. v. Spouses Cereño*, supra note 79.

<sup>90</sup> *Rollo*, (G.R. No. 201650), pp. 57-59. See *Complaint* at 103-116.

No. 192809. The appellate court resolved the case nonetheless (hence, G.R. No. 201650). Petitioners reiterate in the instant Petition that the CA should have deferred resolution of the case. In this regard, the Court agrees with the appellate court that the Status Quo Ante Order did not restrain the CA from resolving the case. The Status Quo Ante Order pertains to the conduct of customs operations in the PPA premises, not on the courts' resolution of the case. The order in fact allowed the BOC to conduct operations in the PPA premises while the case was pending.

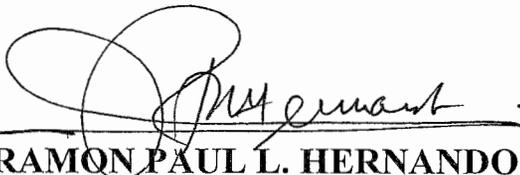
Finally, the Court deems it necessary to note that there was no need for Reta to point out Atty. Castigador's administrative case in the Office of the Ombudsman and his possible criminal liability for graft and corruption. These are matters completely irrelevant to the issue in the instant case.

In sum, the Court reverses the trial court's issuance of the writ of preliminary injunction. The BOC is therefore not obligated to conduct its operations in the ACY premises during the pendency of the trial proper. As Judge Omelio eventually inhibited himself from the case, the RTC branch where the case was re-raffled shall continue with the trial proper with dispatch. The Court lifts the *status quo ante* order issued on October 6, 2010 as it no longer serves its purpose pursuant to this Court's reversal of the RTC's writ of preliminary injunction.

**WHEREFORE**, the Court rules as follows:

1. To **DISMISS** the Petition for *Certiorari* in G.R. No. 192809 and the Petition for *Certiorari* and Prohibition in G.R. Nos. 193588 and 193590-91 on the ground of mootness.
2. To **GRANT** the Petition for Review on *Certiorari* in G.R. No. 201650. The January 17, 2012 Decision and April 17, 2012 Resolution of the Court of Appeals in CA-G.R. SP No. 03568 are **REVERSED** and **SET ASIDE**. The March 19, 2010 Order of the Regional Trial Court, Davao City, Branch 16 in Civil Case No. 33,275-10 is **REINSTATED**. Moreover, the writ of preliminary injunction issued by Regional Trial Court, Davao City, Branch 14 on April 19, 2010 in Civil Case No. 33,275-10 is **LIFTED**. The corresponding branch of the Regional Trial Court, Davao City, where Civil Case No. 33,275-10 was re-raffled is **ORDERED** to continue the trial with **DISPATCH**.
3. The *Status Quo Ante* Order issued by this Court on October 6, 2010 in G.R. No. 192809 is **LIFTED**.

**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

**WE CONCUR:**

  
**MARVIC M.V.F. LEONEN**  
Associate Justice  
Chairperson

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
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.

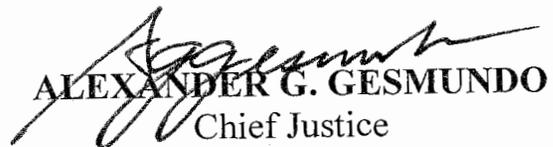


**MARVIC M.V.F. LEONEN**

Associate Justice  
Chairperson

**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.



**ALEXANDER G. GESMUNDO**  
Chief Justice