

****Title: Liberty Broadcasting Network, Inc. vs. Atlocom Wireless System, Inc.****

****Facts:****

Atlocom Wireless System, Inc. (Atlocom) was granted a legislative franchise under Republic Act (R.A.) No. 8605. On October 8, 2003, the National Telecommunications Commission (NTC) issued Atlocom a Provisional Authority (PA) to install, operate, and maintain a Multi-Point Multi-Channel Distribution System in Metro Manila, subject to frequency assignment. The PA was valid for 18 months, until April 8, 2005. Atlocom requested extensions for the PA and applied for a permit to import necessary equipment.

The NTC re-allocated MMDS frequencies for Broadband Wireless Access on August 23, 2005, through Memorandum Circular No. 06-08-2005. Subsequently, Atlocom's motion for extension of PA was denied by the NTC due to this re-allocation. Aggrieved, Atlocom filed a petition with the RTC to enjoin the implementation of MC 06-08-2005 and reinstate its frequencies, claiming deprivation of its rights without notice and hearing. Liberty Broadcasting Network, Inc. (LBNI) was allowed to intervene, asserting that certain frequency bands had been re-allocated and assigned to it per MC 06-08-2005.

The RTC denied Atlocom's application for a writ of preliminary prohibitory or mandatory injunction, a decision Atlocom challenged before the CA. The CA initially denied Atlocom's plea but eventually granted a writ of preliminary prohibitory injunction in its favor, overturning the RTC's ruling. LBNI and NTC filed motions for reconsideration; however, they were denied by the CA. Subsequently, both LBNI and NTC filed separate petitions for review with the Supreme Court, which were consolidated due to their arising from the same factual circumstances.

****Issues:****

1. Did Atlocom comply with the requisites for issuance of a writ of preliminary injunction?
2. Was LBNI's motion to file counter-bond correctly denied by the CA?

****Court's Decision:****

The Supreme Court found the petitions meritorious, ruling in favor of LBNI and NTC. It highlighted that a preliminary injunction requires the applicant to prove (1) a clear and unmistakable right to be protected, (2) a material and substantial invasion of such right, (3) an urgent need for the writ to prevent irreparable injury, and (4) no other ordinary, speedy, and adequate remedy exists. The Court concluded that Atlocom failed to demonstrate a clear legal right to the frequencies in question, primarily because its PA had expired and its

application for an extension was denied.

Furthermore, the CA's issuance of a writ of preliminary injunction was deemed improper, as Atlocom's right to the frequencies or to the extension of PA had not been clearly established. The CA was found to have gravely abused its discretion, leading to the reversal and setting aside of its Decision and Resolution. The Court reinstated and upheld the RTC's Orders denying Atlocom's application for a writ of preliminary prohibitory or mandatory injunction.

****Doctrine:****

The Supreme Court reiterated that a preliminary injunction is a provisional remedy to preserve and protect certain rights and interests during the pendency of an action. For the injunction to be granted, the applicant must clearly establish the right to be protected, which Atlocom failed to demonstrate.

****Class Notes:****

- Preliminary Injunction Requisites: Right in esse, material and substantial invasion, urgent need, and lack of another remedy.
- Frequency Assignment Concept: PA is subject to frequency assignment, not automatically included.
- Due Process in Frequency Re-allocation: Proper notice and opportunity to be heard meet the requirements.
- Rights Protected by Injunction: Must be legal, enforceable, and clearly founded on law.

****Historical Background:****

This case underscores the complexities involved in the regulation and assignment of broadcast frequencies in the Philippines, highlighting the critical role of due process in administrative actions by regulatory bodies like the NTC. It illustrates the challenges in balancing the interests of different stakeholders within the telecommunications sector, a vital part of national infrastructure impacting economic development and public interest.