

**ARIEL Q. LATAYAN, PETITIONER, VS. JUDGE VIRGINIA
HOFILEÑA-EUROPA, REGIONAL TRIAL COURT, BRANCH 11,
ELEVENTH JUDICIAL REGION AND PRYCE CORPORATION, INC.,
RESPONDENTS.**

Ponente: PEREZ, J.

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PEREZ, J.:

In a Resolution dated 02 October 2014, We resolved to hold the action for the prayer for a writ of preliminary injunction in abeyance pending compliance to the following Court directives, namely: for the petitioner to pay the deficiency in docket fees in the amount of P180.00, within five (5) days from notice; and for private respondent to file his Comment on the petition and to show cause why the prayer for injunctive relief should be granted, to which petitioners may file a Reply within five (5) days from receipt of private of private respondent's Comment.

On 29 October 2014, in compliance to Our directive, petitioner remitted to this Court the additional amount of P180.00 as payment for the deficiency in docket fees.

On 13 November 2014 or five days after the last day to comply, private respondent filed its Comment and Opposition. Subsequently, on 19 November 2014 petitioner filed his Reply to the said comment and opposition.

Acting on these preliminary matters, we resolve to:

- Note Petitioner's Compliance filed on 29 October 2014;
- Admit Private Respondent's Comment and Opposition filed on 13 November 2014 albeit filed five days late; and
- Note Petitioner's Reply to Respondent's Comment filed on 19 November 2014.

With the submission of the required pleadings, We now resolve petitioner's prayer for injunctive relief.

Petitioner's prayer for the issuance of a writ of preliminary injunction is denied.

Section 3, Rule 58 of the Rules of Court provides that:

"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. (3a)”

A writ of preliminary injunction is issued to preserve the status quo ante, upon an 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.[1] It is granted only to protect actual and existing substantial rights.[2]

Here, petitioner failed to establish a clear right that would be violated by the 26 May 2014 Order of the RTC denying his motion to dismiss for private respondent’s failure to appear during pre-trial. A general statement that an applicant is entitled to an injunctive writ pending the resolution of the case based on merits does not suffice to state a clear and unequivocal right.

Petitioner’s ground for the issuance of the writ of preliminary injunction reads:

“20. On the Injunctive Relief. Based on the preceeding (sic) discussions, the petitioner is entitled to the reliefs demanded from the Honorable Court of Appeals during the pendency of the appealed case, that is, for the issuance of the temporary restraining order and/or writ of preliminary injunction against all the respondents Regional Trial Court and Pryce Corporation, Inc. not to act in any manner in Civil Case No. 31950-07, so as, not to render moot and academic the legal matters raised in the petition for certiorari.”

Petitioner’s plea is for this Court to immediately restrain the proceedings below which allegedly have become irregular after the trial court refused to dismiss plaintiff’s complaint. Whether petitioner is correct or not in his restatement of the procedural situation, however, will still have to be resolved after the merits of his petition have been considered by this Court.

In the meantime, We do not see how the present petition will become moot if the court a quo continuous to hear the case while we consider the present interlocutory matter. If petitioner is correct the result would have to be the dismissal of the complaint including all the proceedings that have been done by the trial court past its questioned order. In this light, the urgency of the issuance of the writ was not effectively established by petitioner because the irreparable damage sought to be prevented by the injunctive writ is unclear and unproven.

IN VIEW OF THE FOREGOING, petitioner’s application for a writ of preliminary injunction is hereby DENIED.

SO ORDERED.

Camello, J., Chairperson, and Inting, JJ., concur.

[1] Los Baños Rural Bank, Inc., v. Pacita O. Africa, G.R. No. 143994, 11 July 2002.

[2] Pahila-Garido v. Tortogo, G.R. No. 156358, 17 August 2011

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