

SPS. HUMBERTO DELOS SANTOS, JR. AND CARMENCITA DELOS SANTOS, PETITIONERS, VS. HONORABLE JUDGE GEORGE E. OMELIO-THE HONORABLE PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH ...

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This Court RESOLVES to NOTE the Comment[1] (With Opposition to the Application for Temporary Restraining Order and/or Writ of Preliminary injunction) filed by the private respondent on 6 December 2013.

Judicial Records Division's (JRD) report[2] shows that no reply to the comment has been filed by the petitioners. Thus, the petitioners are deemed to have waived the filing of the said pleading.

Treating now the petitioners' prayer for the Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction, the Court RESOLVES to DENY the same.

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

SEC. 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 of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually would probably work injustice to the applicant;
- (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

A scrutiny of the petition does not show the existence of the conditions set forth in the aforementioned provision that would necessitate the grant of injunctive relief. It does not appear from the facts shown by the TRO and/or WPI application that great or irreparable injury would indeed result to petitioner before the matter can be heard. Moreover, if We resolve the prayer for TRO and/or WPI, We would in some way touch on the merits of the petition itself. Hence, by acting on the prayer of the issuance of these ancillary remedies, We would in effect rule on the main petition.

In view of the foregoing, parties are DIRECTED to simultaneously submit their memoranda in amplification with their respective positions within fifteen (15) days from receipt of notice. Failure to do so, the instant petition shall be deemed submitted for decision, with or without memoranda.

SO ORDERED.

Borja, J., Chairperson and Badelles, JJ., concur.

[1] Rollo, p. 200.

[2] Rollo, p.. 257, dorsal portion.

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