

**VALLACAR TRANSIT, INC. AND/OR RICARDO B. YANSON, SR.,
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION; VTI
EMPLOYEES UNION ALU-TUCP, IN BEHALF OF ITS MEMBERS JOSE
ALBISO, M...**

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

Before this Court is a Petition for Certiorari[1] under Rule 65 of the Rules of Court seeking to set aside the Decision dated July 15, 2013 and Resolution dated November 15, 2013 of the National Labor Relations Commission (NLRC) Seventh Division in NLRC Case No. VAC-05-000308-13.

After a careful perusal of the instant petition, the following infirmities are revealed:

- The petitioners failed to properly verify the Petition[2] in accordance with A.M. No. 00-2-10-SC amending Section 4, Rule 7 in relation to Section 1, Rule 65 of the 1997 Revised Rules of Court.
- The petitioners failed to attach copies of all pleadings and documents[3], which are necessary for a thorough understanding and resolution of the instant Petition, such as, but not limited to the following:
 - a. Private respondents' respective Complaints filed before the Regional Arbitration Branch No. VII (RAB VII).
 - b. Petitioners' Position Paper, including its annexes, filed before the RAB-VII.
 - c. Private respondents' Memorandum of Appeal filed before the NLRC, petitioners' Answer to the Memorandum of Appeal filed before the NLRC.
 - d. Private respondents' Motion for Reconsideration of the July 15, 2013 Decision filed before the NLRC.
 - e. Private respondents' Comment to petitioners' Motion for Reconsideration of the July 15, 2013 Decision filed before the NLRC.
- Petitioners' payment of docket and other lawful fees was short of One Hundred Eighty Pesos (P180.00).

With regards to petitioners' prayer for preliminary injunction, petitioners merely alleged that if the injunction will not be issued by this Court, the Resolutions of the NLRC may be enforced at any time since the private respondents as expected may file a Motion for Issuance of a Writ of Execution. Petitioners did not even state any clear showing that a right exists that warrants the issuance of the preliminary injunction.

A preliminary injunction is an order granted at any stage of an action 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 is the "strong arm of equity," an extraordinary peremptory remedy that must be used with extreme caution, affecting as it does the respective rights of the parties.[4]

Sections 3 and 5, Rule 58 of the 1997 Rules of Civil Procedure on preliminary injunction, provide the

requirements for the issuance of a writ of preliminary injunction or a TRO:

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 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.

SEC. 5. Preliminary injunction not granted without notice; exception. - No preliminary injunction shall be granted without hearing and prior notice to the party or persons 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 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. The court shall also determine, within the same period, whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

Xxx xxx xxx

From the above foregoing provisions, it appears that before a writ of preliminary injunction may be issued, a clear showing must be made that there exists a right to be protected and that the acts against which the writ is to be directed are violative of an established right.

Here, petitioners' right to injunctive relief has not been clearly and unmistakably demonstrated to cause the issuance of the preliminary injunction. Thus, petitioners' prayer for preliminary injunction is hereby DENIED.

The foregoing procedural and substantial defects warrant an outright dismissal of the instant petition.

WHEREFORE, the petition is hereby DISMISSED.

SO ORDERED.

Lagura-Yap, and Quijano-Padilla*, JJ., concur.

* Acting Chairperson per Office Order No. 06-14-ELDS dated Feb. 28, 2014.

* Acting Junior Member per Office Order No. 472-12-ABR dated December 12, 2013.

[1] Rollo, pages 3-15.

[2] Although there was a Verification and Certification of Non-Forum Shopping appended to the Petition signed by a certain Hernan B. Omecillo, the latter was without any authority from petitioner Vallacar Transit, Inc., see Rollo, p. 14

[3] See Rules of Court, Rule 65, Section 1. Petition for Certiorari – xxx xxx xxx

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-fraud as provided in the third paragraph of Section 3, Rule 46.

[4] St. James College of Parañaque v. Equitable PCI Bank, G.R. No. 179441, August 9, 2010, 627 SCRA 328, 345.

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