

LUIS P. GO, PETITIONER, VS. JUDGE VIRGINIA HOFILENA-EUROPA, ET AL., RESPONDENTS.

Ponente: SINGH, J.

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SINGH, J.:

In a Minute Resolution[1] dated November 4, 2014, this Court, among others, directed the private respondent to file a comment (not a motion to dismiss) on the petition and to show cause why a temporary restraining order (TRO) and/or writ of preliminary injunction (WPI) should not be issued.

The Court NOTES private respondent's Comment to Petition and Opposition to Prayer for Temporary Restraining Order[2] filed on December 4, 2014. Per CA-CMIS Report[3] dated January 29, 2015, no reply to such comment was filed by petitioner; hence, the filing of said pleading is deemed waived.

The Compliance filed by petitioners on November 25, 2014[4] is likewise NOTED.

We now resolve petitioners' application for the issuance of a TRO and/or WPI, as embodied in the petition, to enjoin public respondent trial court from issuing the Certificates of Redemption involving the subject properties and not to act in any manner in Civil Case No. 30271-04, so as not to render moot and academic the matters raised in the instant petition for certiorari and prohibition.

We DENY petitioner's application for injunctive relief.

For the issuance of a writ of preliminary injunction to be proper, it must be shown that the invasion of the right sought to be protected is material and substantial, that the right of complainant is clear and un-mistakable and there is an urgent and paramount necessity for the writ to prevent serious damage. In the absence of a clear legal right, the issuance of a writ of injunction constitutes grave abuse of discretion.[5]

In this particular case, petitioner anchors his application on his alleged legal right against public respondent's act of granting the issuance of a Certificate of Redemption in favor of the private respondents on the ground that the period of redemption had already lapsed. Likewise, he claims that the redemption amounts are insufficient. However, this cannot be considered the legal right within the purview of the strict guidelines in the issuance of an injunctive relief. A clear legal right means one clearly founded in or granted by law or is enforceable as a matter of law.[6] In the absence of a clear legal right, the issuance of the writ constitutes grave abuse of discretion. The possibility of irreparable damage without proof of an actual existing right is not a ground for injunction.

A temporary restraining order or a writ of preliminary injunction, may only be resorted to by a litigant for the preservation or protection of his rights or interests and for no other purpose during the pendency of the principal action. It is resorted to only when there is a pressing necessity to avoid injurious consequences, which cannot be remedied under any standard compensation. The resolution of an application for a writ of preliminary injunction rests upon the existence of an emergency or of a special recourse before the main case can be heard in due course of proceedings.[7]

No such pressing necessity or emergency exists in this case which warrants the issuance of the injunctive relief

prayed for.

ACCORDINGLY, the prayer for a temporary restraining order and/or writ of preliminary injunction is DENIED and the parties are DIRECTED to submit their respective memoranda within fifteen (15) days from notice. Upon the lapse of which, the petition shall be deemed SUBMITTED FOR DECISION with or without such memoranda.

SO ORDERED.

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

[1] Rollo, p. 82.

[2] Id. at pp. 85-109.

[3] Id. front cover.

[4] Rollo, p. 83.

[5] TML Gasket Industries, Inc. vs. BPI Family Savings Bank, Inc., G.R. No. 188768, January 07, 2013 citing Equitable PCI-Bank, Inc. vs. OJ –Mark Trading Inc., G.R. No. 165950, 11 August 2010, 628 SCRA 79,88.

[6] Australian Professional Realty, et al., vs. Municipality of Padre Garcia Batangas Province, G.R. No.83367, March 14, 2012.

[7] Levi Strauss & Co., v. Clinton Apparel, Inc., G.R. No. 138900, September 20, 2005.

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