

MUNICIPALITY OF DUMANJUG, CEBU, REPRESENTED BY MAYOR NELSON F. GARCIA, PETITIONER, VS. SPS. EDELYN & MILLARD FERNANDEZ, DOING BUSINESS UNDER THE NAME FLYOVER LUMBER & GENERAL ME...

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

Before Us is a Petition for Certiorari with prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction[1] seeking to annul and nullify the Orders dated October 23, 2012 and November 25, 2013 of the Regional Trial Court, (RTC), Branch 60, Barili, Cebu.

Petitioner's prayer for preliminary injunction, alleged that the actuations of respondent Judge are prejudicial to the interests and rights of the petitioner because he disregard the rule of law and of due process. It is prejudicial to the public in general particularly the people of Dumanjug at whose expense the respondent Flyover Lumber will be enriched.

In *Ermita v. Aldecoa-Delorino, et al.*, [2] the Supreme Court held that an injury is considered irreparable if it is of such constant and frequent recurrence that no fair and reasonable redress can be had therefor in a court of law, or where there is no standard by which the amount can be measured with reasonable accuracy, that is, it is not susceptible of mathematical computation. It is considered irreparable injury when it cannot be adequately compensated in damages due to the nature of the injury itself or the nature of the right or property injured or when there exists no certain pecuniary standard for the measurement of damages.

In this case, We do not find that petitioner will suffer great and irreparable injury considering that what is sought to be implemented is a collection of money and damages which is a monetary judgment. It can be clearly measured, and is susceptible of mathematical computation. Thus, petitioner's prayer for preliminary injunction is hereby DENIED.

After a careful perusal of the petition, We found the following infirmities, First, petitioner failed to indicate in the Petition the material date showing when the Motion for Reconsideration of the October 23, 2012 Order subject thereof was filed before the court a quo, in violation of Section 3, Rule 46 of the 1997 Rules of Civil Procedure. Second, petitioner, a local government unit and juridical entity, failed to submit the Resolution of the Sangguniang Bayan or Municipal Council, which specifically authorized Nelson F. Garcia, the Municipal Mayor, to sign the Verification and Certification against Non-Forum Shopping and to file the instant Petition in behalf of petitioner. Third, petitioner failed to attach copies of all pleadings and documents, which are necessary for a thorough understanding and resolution of the instant Petition, such as, but not limited to, the annexes to the Complaint filed before the court a quo. Fourth, failure of the petitioner's counsel to indicate the necessary details of his notarial certificate, in violation of Section 2, Rule VIII of the Rules of Notarial Practice[3] (A.M. 02-8-13-SC), as follows:

- a. The serial number of the commission of the notary public.

- b. The office address of the notary public.
- c. The place of issuance of his professional tax receipt.

The foregoing noted defects warrant an outright dismissal of the instant petition[4].

WHEREFORE, the petition is hereby DISMISSED.

SO ORDERED.

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

* Acting Junior Member per Office Order No. 472-13-ABR dated December 12, 2013.

[1] Rollo, pages 3-20.

[2] G.R. No. 177130, June 07, 2011, citing Philippine Air Lines v. National Labor Relations Commission, G.R. No. 120567, March 20, 1998.

[3] 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC), effective Aug. 1, 2004, amended on Feb. 19, 2008.

Sec. 2 Contents of the Concluding Part of the Notarial Certificate. - The notarial certificate shall include the following:

- (a) the name of the notary public as exactly indicated in the commission;
- (b) the serial number of the commission of the notary public;
- (c) the words "Notary Public" and the province or city where the notary public is commissioned, the expiration date of the commission, the office address of the notary public; and
- (d) the roll of attorney's number, the professional tax receipt number and the place and date of issuance thereof, and the IBP membership number.

[4] See Revised Rules of Court, Rule 46,

Section 2. To what actions applicable. - This Rule shall apply to original actions for certiorari, prohibition, mandamus, quo warranto.

Section 3. Contents and filing of petition; effect of non-compliance with requirements. -

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The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

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