

ARCHIPELAGO PHILIPPINES FERRIES CORPORATION AND PHILHARBOR FERRIES AND PORT SERVICES, INC., PETITIONERS, VS. EDITA U. MATAMIS AND EIGHT DIVISION, NATIONAL LABOR RELATIONS COMMIS...

Ponente: SINGH, J.

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SINGH, J.:

This Court hereby resolves to NOTE the following:

- a. Compliance/Transmittal[1] dated 11 September 2014 filed by the petitioners Archipelago Philippines Ferries Corporation (Archipelago) and Philharbor Ferries and Port Services, Inc. (Philharbor);
- b. Comment (with Opposition for (sic) the Issuance of TRO and/or WPI)[2] dated 29 September 2014 filed by private respondent Edita Matamis (Matamis).

Anent petitioners' prayer for a writ of preliminary injunction and/or temporary restraining order, the same is denied.

A preliminary injunction is an order granted at any stage of an action or proceeding 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 may also require the performance of a particular act or acts, in which case it shall be known as a preliminary mandatory injunction. To justify the issuance of a writ of preliminary mandatory injunction, it must be shown that: (1) the complainant has a clear legal right; (2) such right has been violated and the invasion by the other party is material and substantial; and (3) there is an urgent and permanent necessity for the writ to prevent serious damage. An injunction will not issue to protect a right not in esse, or a right which is merely contingent and may never arise since, to be protected by injunction, the alleged right must be clearly founded on or granted by law or is enforceable as a matter of law.[3]

From the foregoing, it appears clearly that before a writ of preliminary and/or temporary restraining order may be issued, a clear showing must be made that there exists a right to be protected and the acts against which the writ is to be directed are violative of an established right.[4]

Petitioners Archipelago and Philharbor argue that if no temporary restraining order is issued enjoining public respondent National Labor Relations Commission from proceeding with the execution of the Decision dated 26 November 2013 of Executive Labor Arbiter Nicodemus G. Palangan, they will be constrained to pay private respondent Matamis separation pay plus allowances despite the pendency of the instant appeal.[5] This cannot be considered a "clear right" within the purview of the strict guidelines in the issuance of 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.[7] The possibility of irreparable damage without proof of an actual existing right is not a ground for injunction.[8]

A writ of preliminary injunction or a temporary restraining order 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.[9]

All told, no pressing necessity exists in the instant case to warrant the issuance of the injunctive relief prayed for.

ACCORDINGLY, the prayer for injunctive relief is hereby DENIED. Petitioners are directed to file a reply to the Comment filed by private respondent Matamis within five (5) days from receipt of the same.

SO ORDERED.

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

[1] Rollo, p. 160.

[2] Rollo, pp. 162-165.

[3] Heirs of Melencio Yu and Talinanap Matualaga v. Court of Appeals, G.R. No. 182371, 4 September 2013.

[4] China Banking Corporation v. Spouse Sharry Ciriaco and Esther Ciriaco, G.R. No. 170083, 11 July 2012.

[5] Rollo, Petition for Certiorari dated 21 July 2014, pp. 20-21.

[6] Australian Professional Realty v. Municipality of Padre Garcia Batangas Province, G.R. No. 183367, 14 March 2012.

[7] Ibid.

[8] Ibid.

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

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