

**ROMEO J. MIZONA, PETITIONER, VS. THE HON. COURT OF APPEALS,
AVELINO MIZONA, PEDRO R. BURNOT, SR., FRED R. MIZONA,
BERNABE MIZONA, DANIEL MIZONA, ROGELIO JOSE, LEOVEGILDO
JOSE, H...**

G.R. No. 120985. December 04, 2000

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-120985/>

QUISUMBING, J.:

This petition for review seeks to annul the decision of the Court of Appeals promulgated on July 6, 1995, in C.A. G.R. No. 35603 which lifted the writ of preliminary injunction issued on August 22, 1994, by the Securities and Exchange Commission (SEC).

The facts of the case are as follows:

Petitioner Romeo J. Mizona is the Executive Bishop of the "Iglesiang Itinayo Ni Jesucristo Sa Malayong Silangan, Inc." (hereafter referred to as the "Church"), a religious corporation registered with the SEC under SEC Reg. No. 23315. The Church consists of various congregations, the Central Congregation with its Chapel, based in Cabanatuan City.

On March 14, 1993, in his capacity as Executive Bishop, petitioner removed private respondent Avelino Mizona from the position of Minister-in-Charge of the Cabanatuan City chapel. Petitioner claimed that Avelino abandoned his congregation to speak before other congregations of the Church and delivered sermons which slandered and attacked petitioner's character and reputation.

On March 18, 1993, Avelino obtained a Temporary Restraining Order (TRO) in Civil Case No. 1415 for injunction, from the Regional Trial Court of Cabanatuan City[1] (RTC), Branch 25, to restrain petitioner from assuming the position of Minister-in-Charge of the Central Congregation and from meddling with the Central Chapel.[2] Thereafter, the Church's Council of Pysbeters (hereafter referred to as "Church's Council") issued on March 19, 1993, Resolution No. 2, Series of 1993, suspending petitioner as Executive Bishop due to the latter's alleged immoral conduct.

On March 21, 1993, petitioner expelled and ex-communicated the following members of the Church's Council, namely: respondents Avelino Mizona, Pedro Burnot, Sr., Herminio Burnot, Bernabe Mizona, Daniel Mizona and Romulo Magno. Petitioner claimed he had no alternative but to expel respondents to put an end to the blasphemous disregard of his authority as leader and to preserve the integrity of the Church itself.[3]

On March 31, 1993, petitioner was found guilty of immorality and was relieved from his position as Executive Bishop by three-fourths vote of the Church's Council membership.[4] Respondents subsequently elected Pedro Burnot, Sr., as Executive Bishop who then proceeded to appoint his new cabinet members.

To prevent petitioner and his supporters from taking possession of church properties within the control of

respondents, the Church's Board of Trustees brought Civil Case No. 1426[5] before the RTC of Cabanatuan City, Branch 25, and secured another Temporary Restraining Order (TRO) dated April 6, 1993.[6]

Believing that the regular courts lacked jurisdiction over the controversy, petitioner then filed a complaint[7] with the SEC docketed as SEC Case No. 4442, praying that: a) respondent Avelino be ordered to vacate the position of Minister-in-Charge and to turn over properties, funds and records of the Church to the Acting Treasurer or Auditor thereof; b) Resolution No. 2, Series of 1993 issued by the Church Council suspending petitioner as Executive Bishop be declared null and void; c) the writs of Preliminary Mandatory and Prohibitory Injunction and Temporary Restraining Order (TRO) be issued ordering respondents to desist from enforcing the resolution and requiring respondent Avelino to turn over the position of Minister-in-Charge as well as the chapel in Cabanatuan to the administration of petitioner.

Hearings were then conducted on petitioner's prayer for injunctive relief before the SEC. Petitioner testified as a witness but after his testimony, both parties agreed to submit the matter concerning issuance of a preliminary injunction for determination on the basis of their respective memoranda.[8] Finding petitioner's evidence to be insufficient, SEC Hearing Officer Macario Mallari promulgated an order on December 20, 1993, stating:

"WHEREFORE, plaintiff's application[s] for the writs of mandatory and prohibitory injunctions are hereby DENIED.

Meantime, let the Preliminary Conference of this case be, as it is hereby set on January 13, 1994 at 9:30 in the morning."[9]

After a motion for reconsideration was denied by the Hearing Officer on March 4, 1994,[10] petitioner brought a petition for review of the last two orders with the SEC en banc. On August 22, 1994, the SEC en banc granted the petition. It found that the hearing officer disregarded the petitioner's assertion that the Council of Pysbeters is not empowered under the by-laws of the church to preventively suspend the Executive Bishop. The Hearing Officer further ignored the fact that petitioner had expelled six of the private respondents who were also members of the Council of Pysbeters prior to the decision of the Council to impeach petitioner as Executive Bishop of the church.[11] These findings were not refuted by private respondents. Consequently, the SEC en banc ruled that the six Church Council members who were expelled could not validly participate in the voting for petitioner's impeachment and thus, the three-fourths vote required under the church by-laws was not met.

After, the SEC en banc denied reconsideration,[12] respondents brought the case to the Court of Appeals through a petition for review with application for a temporary restraining order and/or preliminary injunction. On November 4, 1994, the Court of Appeals issued a resolution[13] staying enforcement of the SEC's decision in order that the petition may not become moot and academic. Subsequently, the Court of Appeals rendered the assailed judgment,[14] disposing as follows:

"WHEREFORE, the petition is hereby GIVEN DUE COURSE and is GRANTED. The writ of preliminary injunction issued by the SEC on August 22, 1994 is lifted."[15]

The Court of Appeals said that the SEC en banc in declaring that the Church Council was unauthorized to suspend and impeach petitioner pre-judged the main case and assumed as true the allegations contained in petitioner's pleadings. Additionally, the Court of Appeals found that petitioner's right to hold the position of Executive Bishop of the Church was not shown to be clear and unmistakable. Thus, the application for injunctive relief could not be granted.[16]

Hence, the instant petition.

Petitioner now assigns the following as errors committed by the Court of Appeals:

I

RESPONDENT APPELLATE COURT ERRED IN HOLDING THAT IN ISSUING THE WRIT OF PRELIMINARY INJUNCTION [,] THE SEC EN BANC HAD IN EFFECT PRE[-]JUDGED AND DISPOSED OF THE MAIN CASE WITHOUT A HEARING.

II

RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT HEREIN PETITIONER'S RIGHT TO HOLD THE POSITION OF EXECUTIVE BISHOP IS NOT CLEAR AND UNMISTAKABLE.[17]

For our resolution are the following issues: (1) Did the SEC en banc pre-judge the main case by ordering the issuance of the writ of preliminary injunction? (2) Was it grave error for the Court of Appeals to declare that petitioner's right to the position of Executive Bishop was not clear and unmistakable?

On the first issue, it must be stressed that what was elevated to the SEC en banc was a mere incident in the case still then pending before the Hearing Officer.[18] Except for the application for preliminary injunction, the parties have not yet been heard on the issues involved in the case, a fact evident in the order of the Hearing Officer which set a date for a preliminary conference between the parties. By granting the injunctive writs on the basis of a finding that the Church Council had no power to suspend petitioner and that infirmities in the voting process invalidated petitioner's impeachment as Executive Bishop of the Church, the SEC touched upon substantive matters which have not yet been resolved by the Hearing Officer, thereby precluding the latter from making a determination of the primary issues raised in the main case.

The prevailing rule is that a court should avoid issuing a writ of preliminary injunction which would in effect dispose of the main case without trial.[19] This caveat applies, in our view, to a quasi-judicial agency as well. Accordingly, the SEC should not have ordered the issuance of the preliminary injunctive writs on the basis of petitioner's yet unproven allegations because effectively, it concluded the main case without a proper hearing on the merits. By holding thus, the SEC pre-judged the main case and shifted the burden of proof on respondents since it assumed the proposition which petitioner was ineptly bound to prove.[20] Also, having granted through a writ of preliminary injunction the main prayer of the complaint, there was practically nothing left for the Hearing Officer to try except petitioner's claim for damages. Precisely, then, the effect of the writ issued by the SEC[21] is what our rule seeks to avoid.

Further, we note that petitioner's right to the position of Executive Bishop was not shown to be clear and unmistakable indeed. For a petition for a writ of preliminary injunction to prosper, 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 unmistakable, and that there is an urgent and paramount necessity for the writ to prevent serious damage.[22] As held in *Developers Group of Companies, Inc. vs. Court of Appeals*, 219 SCRA 715, 721 (1993), while it is not required that the right claimed by petitioner as its basis for seeking injunctive relief be conclusively established, it is nevertheless necessary to show, at least tentatively, that it exists and is not vitiated by any substantial challenge or contradiction.

In the case at bar, the right claimed by petitioner is precisely the bone of contention in the main case before the Hearing Officer and has been put into serious question by the prior filing of civil cases by respondents before the regular courts. This makes petitioner's right or title to said position of Executive Bishop less than clear. Consequently, where the complainant's right or title is doubtful or disputed, injunction is not proper. [23] The possibility of irreparable damage without proof of an actual existing right would not justify injunctive relief in petitioner's favor.

WHEREFORE, the instant petition is DENIED. The assailed decision of the Court of Appeals in C.A. G.R. SP

No. 35603 is AFFIRMED. Costs against petitioner.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Rollo, p. 165.

[2] Id. at 110-111.

[3] Id. at 112.

[4] Id. at 44.

[5] Id. at 166.

[6] Id. at 112-113.

[7] Id. at 83-88. Dated April 5, 1993.

[8] Id. at 175.

[9] Id. at 176.

[10] Id. at 184 .

[11] Id. at 262.

[12] Id. at 283.

[13] Id. at 319.

[14] Id. at 43-50. Dated July 6, 1995.

[15] Id. at 50.

[16] Id. at 49-50.

[17] Id. at 18.

[18] See Peña vs. Court of Appeals, 245 SCRA 691, 701 (1995).

[19] Searth Commodities Corp. vs. Court of Appeals, 207 SCRA 622, 629-630 (1992) citing: Rivas vs. Securities and Exchange Commission, 190 SCRA 295 (1990); Government Service Insurance System vs. Florendo, 178 SCRA 76 (1989); and Ortigas & Co. Ltd. Partnership vs. Court of Appeals, 162 SCRA 165 (1988).

[20] Searth Commodities Corp. vs. Court of Appeals, supra at 630; See also Valley Trading Co., Inc. vs. CFI of Isabela, Br. II, 171 SCRA 501, 507-508 (1989).

[21] Ortigas & Company Limited Partnership vs. Court of Appeals, supra at 169.

[22] Arcega vs. Court of Appeals, 275 SCRA 176, 180 (1997), citing: Syndicated Media Access Corporation vs CA, 219 SCRA 797 (1993).

[23] Medina vs. City Sheriff, Manila, 276 SCRA 133, 139 (1997).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.