

**BEETHOVEN L. RUALO, IN SUBSTITUTION OF FORMER
COMMISSIONER LIWAYWAY VINZONS-CHATO OF THE BUREAU OF
INTERNAL REVENUE, PETITIONER, VS. ELISEO P. PITARGUE, NOBLE
BAMBINA B. PEREZ A...**

G.R. NO. 140284. January 21, 2005

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-140284/>

CARPIO, J.:

The Case

This is a petition for review on certiorari[1] to set aside the Decision[2] dated 29 September 1999 of the Court of Appeals (“appellate court”) in CA-G.R. SP No. 47354. The appellate court affirmed the Order[3] dated 6 April 1998 and the corresponding writ of preliminary mandatory injunction dated 7 April 1998 issued by Branch 77 of the Regional Trial Court of Quezon City (“trial court”) in Civil Case No. Q-97-32928. The trial court directed the Bureau of Internal Revenue (“BIR”) (1) to recall Revenue Travel Assignment Order (“RTAO”) Nos. 28-97 and 1-98 to 35-98; (2) to cease from further implementing the reorganization of the BIR; and (3) to maintain the status quo. The present petition also seeks the immediate issuance of a temporary restraining order and writ of preliminary injunction to restrain the court from enforcing the order and writ.

The Facts

On 26 October 1993, President Fidel V. Ramos (“President Ramos”) issued Executive Order No. 132, entitled “Approving the Streamlining of the Bureau of Internal Revenue.” On 28 July 1997, President Ramos issued Executive Order No. 430 (“EO 430”) entitled “Further Streamlining the Bureau of Internal Revenue in line with its Computerized Integrated Tax System.” The Whereas clauses of EO 430 stated the reasons for its enactment, thus:

WHEREAS, the BIR is undertaking a major transformation to fulfill its vision and mission and achieve its strategic goals;

WHEREAS, the BIR has to provide and prepare for the full implementation of the Computerized Integrated Tax System (CITS) within the years 1997 and 1998 and therefore has to institute simultaneously the changes in its processes, values, skills and structure;

WHEREAS, under Section 20, Chapter 7, Title I, Book III of Executive Order No. 292 (Administrative Code of 1987), the President of the Philippines is empowered to exercise such powers and functions vested in him, which are provided for under the laws;

WHEREAS, under Section 76 of the General Provisions of Republic Act No. 8250 (FY 1997 General Appropriations Act), the President may direct changes in the organization and key positions in any department, bureau or agency;

WHEREAS, under Section 78 of the General Provisions of RA 8250, heads of departments, bureaus and

agencies are directed to scale down, phase out or abolish activities no longer essential in the delivery of public services.[4]

On 17 September 1997, then BIR Commissioner Liwayway Vinzons-Chato (“Commissioner Vinzons-Chato”) issued Revenue Memorandum Order No. 57-97 (“RMO 57-97”) prescribing the “Policies and Guidelines on Streamlining the Bureau of Internal Revenue under Executive Order No. 430” which included redeployment of personnel.[5] RMO 57-97 provides:

B. On Deployment of Personnel

- The implementation of the BIR [Table of Organization] under E.O. No. 430 shall not result to involuntary separation or diminution in rank and compensation of personnel.
- Staffing under the modified structure shall come from existing personnel. External hiring shall only be considered for highly technical position where the expertise required is not internally available and the need is immediate (i.e. cannot wait for retooling/retraining interventions).
- Staffing under the modified T.O. shall be done in two stages, i.e., interim assignment and final placement.

3.1. Interim assignments shall be made pending the finalization and approval of a Revised Staffing Pattern pursuant to E.O. No. 430 in order to avoid disruption in normal operations, mobilize newly-created units and effect a smooth transition to the modified structure.

3.1.1. Interim assignments shall be effected through the issuance of Revenue Travel Assignment Orders (RTAOs) for positions specified in E.O. No. 430 and Revenue Special Orders (RSOs) for all others.

3.1.2. Interim assignments shall consider the Qualification Standards (QS) and the special requirements (man specifications) of the positions. Thus, only employees who meet the QS of the positions shall be designated thereto.

3.1.3. Interim assignments shall be approved by the Commissioner upon recommendation of the following:

3.1.3.1 MANCOM – for managerial positions (down to Division Chief level)

3.1.3.2 Assistant Commissioners/ Regional Directors concerned – for non-managerial positions.

On 24 November 1997, Commissioner Vinzons-Chato issued RTAO 28-97 reassigning certain revenue personnel citing the exigencies of the revenue service as well as EO 430 and RMO 57-97 as basis.

On 5 December 1997, respondent Eliseo P. Pitargue (“Pitargue”) filed a petition for prohibition and injunction with special prayer for temporary restraining order before the trial court against Commissioner Vinzons-Chato, together with then Secretary of Finance Roberto de Ocampo (“Secretary de Ocampo”), then Executive Secretary Ruben Torres (“Executive Secretary Torres”) and then Secretary of Budget and Management Salvador M. Enriquez (“Secretary Enriquez”) (collectively, “government officials”). Pitargue raised the issue of whether funds appropriated for a specific purpose may be transferred as a result of the reorganization of the BIR as provided in EO 430 and its implementing policies and guidelines under RMO 57-97. The petition prayed that:

- A temporary restraining order be issued enjoining the [government officials] from further implementing the questioned reorganization of the BIR;
- After hearing, the [government officials] be permanently enjoined from acting on any reorganization pursuant to EO 430, RMO 57-97 and RTAO 28-97; and
- EO 430, as well as RMO 57-97, and all other similar administrative issuances be declared unconstitutional.[6]

During the period 7-9 January 1998, the BIR issued RTAO 1-98 to 7-98, relieving certain BIR personnel of their duties and directing them to report to their new assignments as indicated in the order.[7]

In an order dated 15 December 1997, Judge Marciano I. Bacalla (“Judge Bacalla”) denied Pitargue’s application for the issuance of a temporary restraining order. Judge Bacalla directed the government officials to file their answer.

Meanwhile, in a letter dated 2 January 1998, Commissioner Vinzons-Chato requested for an exemption from the prohibition on the transfer of detail and rotation of BIR personnel during the election period from 11 January 1998 up to 10 June 1998 from the Commission on Elections (“Comelec”). Comelec Director Teresita Suarez (“Director Suarez”) granted this request on 6 January 1998.[8]

Noble Bambina B. Perez (“Perez”), Chief Revenue Officer I of the BIR, filed an amended petition dated 7 January 1998 before the trial court. On the same date, Pitargue filed an urgent motion to admit the amended petition. Pitargue alleged that he has no objection to Perez’s inclusion as party plaintiff to afford her an opportunity to air her grievance.

On 8 January 1998, Judge Bacalla inhibited himself from further proceeding with the petition to avoid any suspicion of a partial judgment. He forwarded the case to the Clerk of Court for re-raffle. The case was re-raffled to Branch 77, presided by Judge Vivencio S. Baclig (“Judge Baclig”).

Comelec promulgated Resolution No. 2973 on 12 January 1998 prohibiting the transfer of any officer or employee in the civil service without the prior written approval of the Comelec during the election period from 11 January 1998 to 10 June 1998.[9]

The BIR issued RTAO 8-98 to 17-98 on 16 January 1998[10] relieving more BIR personnel of their present duties and directing them to report to their new assignments as indicated in the transfer orders. Apart from exigencies of the revenue service, the BIR also cited EO 430 and Republic Act No. 8424 (“RA 8424”)[11] as reasons for the transfers.

On 19 January 1998, Judge Baclig issued an order admitting the amended petition. The order stated that since the government officials have not yet filed a responsive pleading, the amendment of the petition was still a matter of right on the part of Pitargue and Perez. However, Judge Baclig ruled that the motion Seeking to set the case for hearing for the issuance of a temporary restraining order could no longer be granted. In his 15 December 1997 order, Judge Bacalla had already denied the application for a temporary restraining order to enjoin the government officials from further implementing the questioned reorganization of the BIR pursuant to EO 430, RMO 57-97 and RTAO 28-97.

In the meantime, the BIR issued RTAO 19-98 to 29-98[12] on 20 January 1998, and RTAO 30-98[13] on 21 January 1998.

On 23 January 1998, Pitargue filed a motion to reconsider the 19 January 1998 order and reiterated his prayer for the issuance of a temporary restraining order. On the same date, Secretary de Ocampo approved the proposed reorganization of the Office of the Commissioner and the Information Systems Group of the BIR. Approval of the reorganization of the other offices was deferred pending the report and recommendation of the International Monetary Fund’s Technical Mission.[14]

Judge Baclig issued an order on 28 January 1998 admitting Perez as one of the petitioners.

The BIR issued more transfer orders. The BIR issued RTAO 31-98 to 33-98[15] on 27 January 1998, and RTAO 34-98 to 35-98[16] on 3 February 1998.

On 4 February 1998, Judge Baclig issued yet another Order:

When this case was called for hearing on the petitioners' prayer for the issuance of a temporary restraining order, the counsel for public respondents moved for the reconsideration of the Order of this Court, dated January 28, 1998, which set said petitioners' prayer for the issuance of a temporary restraining order for hearing today, contending that the procedure pursued by petitioners is irregular because the Court had already denied their prayer for a temporary restraining order and the order of denial has attained finality. The Court resolves to require public respondents [government officials] to put their motion for reconsideration in writing. And in view of this pending incident, the Court is constrained to cancel today's scheduled hearing.

WHEREFORE, public respondents [government officials] are hereby given fifteen (15) days from yesterday, February 3, 1998, within which to file their motion for reconsideration of the Order of January 28, 1998. Meanwhile, the hearing is hereby held in abeyance.

SO ORDERED.[17]

On the same day, Pitargue filed an urgent motion for reconsideration.[18] Pitargue stated that "the cancellation of the 4 February 1998 hearing on the temporary restraining order, coupled with the grant of a 15-day period for the government officials to file a motion for reconsideration effectively deprives [him] of the urgent right to Seek immediate relief." Pitargue added that "the issuance of more than 30 Revenue Travel Assignment Orders affecting not less than 581 revenue officers all over the country in a span of less than two weeks would render nugatory the relief" for the issuance of temporary restraining order.

On 6 February 1998, Judge Baclig ordered that Pitargue's urgent motion for reconsideration be considered submitted for resolution.

On 10 February 1998, Pitargue and Perez filed a motion to set their application for the issuance of a writ of preliminary injunction for hearing. Pitargue and Perez prayed that should the trial court deny their unresolved motion for reconsideration, the trial court should give them the opportunity on or before 13 February 1998 to show the necessity for the issuance of a writ of preliminary injunction.[19]

On 11 February 1998, Judge Baclig granted Pitargue and Perez's motion, setting the hearing on 13 February 1998.

Commissioner Vinzons-Chato received another memorandum dated 12 February 1998 from Secretary Enriquez, who replaced Secretary de Ocampo as Secretary of the Department of Finance. The memorandum reads in part:

A review of the fiscal program and the measures to ensure stability in revenue generation is currently being undertaken by the undersigned. Considering the implications of the reorganization of the BIR and the redeployment of its personnel on tax administration, a deferment of the implementation of such measures is hereby requested. This is consistent with the January 23, 1998 memorandum of the former Secretary of Finance. The inputs of the new Secretary on major reforms on tax administration including redeployment of personnel can enhance their implementation.

xxx

In the exigencies of the service, this is a request which can be considered a directive.[20]

In the hearing held on 13 February 1998, Pitargue and Perez appeared as witnesses. Pitargue, testifying in his capacity as a taxpayer, declared that he has a right to Seek protection against the misappropriation of public funds resulting from the reorganization in the BIR which he claims is violative of the provisions of the Constitution and the General Appropriations Act of 1997. Perez, a Chief Revenue Officer of the BIR, testified that the issuance of several RTAOs threatens her right to security of tenure.[21]

On 17 February 1998, the trial court gave the OSG a non-extendible period of 15 days from date to file their memorandum. The OSG asserted that there could be no hearing on an application for a writ of preliminary injunction unless the petitioner pleads the application in the main petition. The OSG also insisted that the motion for the issuance of the writ does not contain sufficient allegations to support the application for a writ of preliminary injunction. The trial court allowed Pitargue and Perez to file a memorandum in support of their application for a writ of preliminary injunction also within 15 days from 17 February 1998. Meanwhile, the trial court held in abeyance the hearing on the urgent motion for the issuance of a writ of preliminary injunction pending the submission of the parties' memoranda.

On the same day, Judge Baclig denied Pitargue and Perez's oral motion requesting for the issuance of a temporary restraining order pending the submission of the memoranda of the parties. Judge Baclig based the denial on the same ground adverted to in the 15 December 1997 order that there was no urgency for the issuance of a temporary restraining order.

On 24 February 1998, Pitargue and Perez filed a motion to admit a second amended petition for prohibition and injunction with preliminary mandatory/prohibitory injunction with a special prayer for temporary restraining order. Aside from impleading two additional party petitioners (Nieto A. Racho and Edmund Vasquez) who were alleged to be directly affected by the questioned BIR reorganization, the second amended petition made other substantial changes, to wit:

- Including a different issue: whether the reorganization being undertaken by the BIR in accordance with law;
- Seeking a new relief: nullification of the RTAOs;
- Raising additional grounds for the allowance of the petition: violation of the constitutional right to security of tenure and due process, the provisions of RA 6656 (An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization), RA 8250 (General Appropriations Act of 1997) and the Omnibus Election Code in relation to Comelec Resolution No. 2973, the purposes of Administrative Order No. 372, and the directive of the Department of Finance; and
- Praying for the issuance of a writ of a preliminary mandatory injunction ordering the CIR to recall RTAO 28-97, 1-98 to 35-98 and of a preliminary prohibitory injunction ordering the government officials to cease and desist from reorganizing the BIR.

The second amended petition also prayed that:

- An order be issued permanently enjoining the government officials from acting on any reorganization pursuant to EO 430, RMO 57-97 and RTAO 28-97, 1-98 to 35-98;
- EO 430 be declared unconstitutional; and
- The implementing policies and guidelines contained in RMO 57-97 and RTAO 28-97, 1-98 to 35-98, and all other similar administrative issuances, be declared void or unconstitutional.[22]

In an affidavit dated 24 March 1998, Nieto Racho denied any participation in the second amended petition. Nieto Racho asserted that he never questioned the legality of the various directives issued by the BIR management concerning the bureau's reorganization. He has already transferred from Revenue District Office ("RDO") 83 in Talisay, Cebu to RDO 86 in Borongan, Samar.[23]

On 27 February 1998, the trial court directed the government officials to file their opposition to the motion to admit second amended petition within seven days from date. The government officials correspondingly filed their opposition on 6 March 1998. Pitargue filed a reply to the opposition on 9 March 1998.

Judge Baclig granted the motion to admit the second amended petition on 16 March 1998. Judge Baclig set on 19 and 20 March 1998 the hearing on the application for a writ of preliminary mandatory and prohibitory injunction.

On 19 March 1998, Judge Baclig gave the government officials ten days from said date within which to file their written opposition to Pitargue's application for a writ of preliminary injunction as well as their memorandum. The government officials filed a consolidated opposition and memorandum on 30 March 1998.

The Ruling of the Trial Court

On 6 April 1998, the trial court ordered the issuance of a writ of preliminary injunction directing the BIR to cease from implementing RTAO 28-97 and 1-98 to 35-98. The trial court held that there is a possibility that revenue collection and monitoring activities will be temporarily suspended pending approval of the reassigned revenue officers. The trial court stated that even if the RTAOs do not violate respondents' right to security of tenure, the RTAOs are contrary to the Secretary of Finance's directive to defer the reorganization. The trial court held that there was an illegal reorganization, done without the concurrence of the Secretary of Finance and without the approval of the Secretary of Budget and Management. The dispositive portion of the trial court's order reads:

WHEREFORE, the Court hereby orders the issuance of a writ of preliminary mandatory injunction ordering the respondent Commissioner of Internal Revenue to immediately recall, upon receipt of the writ, Revenue Travel Assignment Order Nos. 28-97 and 1-98 to 35-98, and to cease and desist from further implementing the reorganization of the Bureau of Internal revenue until further Orders from this Court; and to maintain the status quo. The petitioners are exempted from filing an injunction bond considering that respondent Secretary of Finance himself has ordered the deferment of the reorganization in his twin directives.

SO ORDERED.[24] (Emphasis in the original)

The trial court issued the corresponding writ of preliminary mandatory injunction on 7 April 1998.

The following day, the BIR filed a petition for certiorari and prohibition with urgent prayer for temporary restraining order and preliminary injunction with the appellate court. The petition was docketed as CA-G.R. SP No. 47354. The appellate court issued a resolution granting the prayer for a temporary restraining order.

The Ruling of the Court of Appeals

On 19 June 1998, the appellate court issued a resolution directing the trial court to cease and desist from enforcing the order dated 6 April 1998 and the writ of preliminary mandatory injunction dated 7 April 1998.

On 29 September 1999, the appellate court rendered its decision. In upholding the trial court's writ of preliminary injunction, the appellate court ruled that the RTAOs issued by the BIR to effect the transfer or promotion in rank of BIR personnel under EO 430 were issued without authority from the Secretary of Finance and approval by the Secretary of Budget and Management. The appellate court also ruled that the RTAOs violated Section 2 of the Omnibus Election Code and Comelec Resolution No. 2973 dated 12 January 1998. The dispositive portion of the appellate court's decision reads:

WHEREFORE, the instant petition is DENIED due course and is hereby DISMISSED for lack of merit.

Accordingly, the Writ of Preliminary Injunction issued by the Former Fourteenth Division of this Court on June 19, 1998 is hereby reconsidered and set aside.

The respondent Court is hereby DIRECTED to immediately conduct further proceedings with dispatch until the final disposition of the instant case.

No pronouncement as to costs.

Let the entire original record of this Case be REMANDED to the court of origin.

SO ORDERED.[25]

Issues

In its petition, the BIR states that the appellate court committed errors when it:

- UPHELD THE ASSAILED ORDER AND WRIT OF PRELIMINARY MANDATORY INJUNCTION ON THE GRATUITOUS ASSUMPTION THAT A REORGANIZATION IN THE BIR WAS BEING IMPLEMENTED BY THEN COMMISSIONER CHATO THROUGH THE ISSUANCE OF THE RTAOs;
- FAILED TO CONSIDER THAT THE SUBJECT RTAOs WERE MERE TRANSFER AND REASSIGNMENTS OF PERSONNEL ISSUED PENDING THE ACTUAL IMPLEMENTATION OF THE REORGANIZATION ENVISIONED UNDER EO 430, WHICH, IN THE EXIGENCIES OF THE SERVICE, CAN BE ISSUED BY THEN COMMISSIONER CHATO IN THE EXERCISE OF HER PREROGATIVE AS HEAD OF THE BIR;
- HELD THAT THE ISSUANCES OF THE RTAOs WERE IN VIOLATION OF SECTION 1 OF RESOLUTION NO. 2973 DATED 12 JANUARY 1998 OF THE COMELEC, NOTWITHSTANDING THE EXEMPTION OR APPROVAL GRANTED BY THE COMELEC FOR SUCH ISSUANCES;
- FAILED TO NULLIFY THE QUESTIONED ORDER AND WRIT OF PRELIMINARY MANDATORY INJUNCTION DESPITE BEING TAINTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION CONSIDERING:
- THE PATENT INSUFFICIENCY OF RESPONDENTS' SECOND AMENDED PETITION, SPECIFICALLY THE ABSENCE IN THE PETITION OF AN APPLICATION FOR PRELIMINARY INJUNCTION;
- THE FAILURE OF RESPONDENTS TO SHOW THE EXISTENCE OF A CLEAR AND POSITIVE RIGHT WHICH COULD BE PROTECTED BY INJUNCTIVE RELIEF;
- THE ABSENCE OF ANY SHOWING OF IRREPARABLE INJURY SUSTAINED OR WILL BE SUSTAINED BY RESPONDENTS BY REASON OF THE ISSUANCE OF THE RTAOs;
- THE LACK OF A VALID GROUND TO WARRANT EXEMPTION FROM THE REQUISITE POSTING OF AN INJUNCTION BOND; and
- THE PATENT LACK OF MERIT OF RESPONDENTS' SECOND AMENDED PETITION.

The Ruling of the Court

The central question for resolution is whether Pitargue, Perez and Vasquez are entitled to the writ of preliminary injunction granted by the trial court. For this reason, we shall deal only with the questioned writ and not with the merits of the case pending before the trial court.

Section 3, Rule 58 of the 1997 Rules of Civil Procedure provides:

SECTION 3. Grounds for issuance of a writ 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.

For respondents to be entitled to an injunctive writ, they must show that there exists a right to be protected and that the acts against which the injunction is directed are violative of the right.[26] We note that respondents employed the shotgun approach in their petition before the trial court to show their entitlement to the writ of preliminary injunction. Pitargue sued as a taxpayer fearing possible misappropriation of public funds. Vasquez, who received an RTAO reassigning him, raised violation of his constitutional rights to security of tenure and to due process. Perez sued as a BIR employee fearing a violation of her constitutional rights to security of tenure and to due process by a probable inclusion in the RTAOs. Let us examine whether their allegations are sufficient for the issuance of an injunctive writ.

As to Pitargue, it is premature for him to raise violation of the appropriation laws as an issue. Section 25(5), Article VI of the 1987 Constitution states:

No law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.

On the other hand, Section 3 of EO 430 provides:

SECTION 3. Funding. — The financial resources needed to carry out the provisions of this Executive Order shall be taken from funds available in the BIR: Provided, That the total cost of the approved staffing pattern at full implementation shall not exceed available funds for Personal Services.

Section 3 of EO 430 prevents any transfer of appropriation or any augmentation of the funds available for Personal Services. It is speculative on the part of respondents to assert that funds intended for another purpose have been transferred to meet the funding requirements of an impending reorganization under EO 430 and the present reassignments under RMO 57-97 and RTAO 28-97 and 1-98 to 35-98. Furthermore, RMO 57-97 states that:

3. Staffing under the modified T.O. shall be done in two stages, i.e., interim assignment and final placement.
- 3.1. Interim assignments shall be made pending the finalization and approval of a Revised Staffing Pattern pursuant to E.O. 430 in order to avoid disruption in normal operations, mobilize newly-created units and effect a smooth transition to the modified structure.
- 3.1.1 Interim assignment shall be effected through the issuance of Revenue Travel Assignment Orders (RTAOs) for positions specified in E.O. 430 and Revenue Special Orders (RSOs) for all others.

xxx

3.2 Final Placement actions shall take place upon approval of the Revised Staffing Pattern of the Bureau by the Department of Finance (DOF) and the Department of Budget and Management (DBM).

3.2.1 An RTAO shall be issued to confirm/finalize an employee's continued discharge of the functions which constituted his interim assignment.[27]

It was premature for respondents to raise violation of appropriation laws as an issue as final placement shall take place only upon approval of the Revised Staffing Pattern of the BIR by the Department of Finance and Department of Budget and Management.

Being BIR employees, Perez and Vasquez focused their objections on security of tenure. In the case of Perez, respondents object to the specter of a transfer. In the case of Vasquez, respondents object to the place of transfer. Under the law, any employee who questions the validity of his transfer should appeal to the Civil Service Commission.[28] The trial court should have dismissed the case as to Perez and Vasquez, who both failed to exhaust administrative remedies. As we held in *National Power Corporation v. Court of Appeals*:[29]

xxx The settled rule is before a party may Seek the intervention of the courts, he should first avail of all the means afforded by administrative processes. Hence, if a remedy within the administrative machinery is still available, with a procedure prescribed pursuant to law for an administrative officer to decide the controversy, a party should first exhaust such remedy before resorting to the courts.

To subordinate essential government services, along with the great resources and efforts they entail, to the individual preferences and opinions of civil service employees, would negate the principle that a public office is a public trust and that it is not the private preserve of any person.[30]

Section 2(3), Article IX-B of the Constitution provides that “[n]o officer or employee of the civil service shall be removed or suspended except for cause provided by law.” Respondents also invoke RA No. 6656 as construed in *Floreza v. Ongpin*,[31] which declared:

We apply the ruling in *Dario v. Mison* and Section 2 of Republic Act 6656 to this petition. We hold that Floreza was deprived of his right to security of tenure by his non-reappointment to the position of Revenue Service Chief or its new title under the reorganized Bureau of Internal Revenue. It should be remembered that after February 2, 1987, any reorganization undertaken by the government is circumscribed by the provisions and safeguards of the new Constitution. Hence, when Floreza was not reappointed as Revenue Service Chief or as Assistant Commissioner either in the Legal Service or in the Planning and Research Service, and other persons were appointed to the positions, he was, in effect, dismissed from the service in violation not only of his right to security of tenure but to due process as well.

On the other hand, paragraph 1, section 2 of EO 430 states:

SECTION 2. Redeployment of Personnel. — The redeployment of officials and other personnel on the basis of the streamlining embodied in this Executive Order shall not result in the diminution in rank and compensation of existing personnel and shall take into account pertinent Civil Service laws and rules.

RMO 57-97 echoes the same sentiment, and provides:

B. On Deployment of Personnel

1. The implementation of the BIR T.O. under EO 430 shall not result to involuntary separation or diminution in rank and compensation of personnel.

xxx

5. Placement of personnel shall be in accordance with the Civil Service rules and regulations.[32]

Respondents did not cite any BIR employee who suffered a diminution of rank and salary as a result of the issued RTAOs. Neither did they cite any BIR employee who was removed from office as a result of the transfers. Failing these, we assert the presumption of regularity of the issuance of the RTAOs - that Commissioner Vinzons-Chato issued the RTAOs as part of a bona-fide reassignment of selected BIR employees to streamline the Bureau's services. The certification dated 19 May 1998 from Lucita G. Rodriguez, Assistant Commissioner of the BIR's Human Resource Development Service, reads:

THIS IS TO CERTIFY that, to date, no appointments have been issued to BIR employees as a consequence of

their reassignments pursuant to Revenue Travel Assignment Order (RTAO) Nos. 28-97 and 1-98 to 35-98. Accordingly, no salary increase or adjustment was made or given to any of the said employees by virtue of the issuance of the said RTAOs.[33]

Osias B. Baldivino, Chief of the BIR's Litigation and Prosecution Division, notarized the certification.

A preliminary injunction is merely a provisional remedy, an adjunct to the main case subject to the latter's outcome. Its sole objective is to preserve the status quo until the trial court hears fully the merits of the case. The status quo is the last actual, peaceable and uncontested situation which precedes a controversy. The status quo should be that existing at the time of the filing of the case. A preliminary injunction should not establish new relations between the parties, but merely maintain or re-establish the pre-existing relationship between them.[34] We remind respondents of our ruling in *Manila International Airport Authority v. Court of Appeals*: [35]

Considering the far-reaching effects of a writ of preliminary injunction, the trial court should have exercised more prudence and judiciousness in its issuance of the injunction order. We remind trial courts that while generally the grant of a writ of preliminary injunction rests on the sound discretion of the court taking cognizance of the case, extreme caution must be observed in the exercise of such discretion. The discretion of the court a quo to grant an injunctive writ must be exercised based on the grounds and in the manner provided by law. Thus, the Court declared in *Garcia v. Burgos*:

"It has been consistently held that there is no power the exercise of which is more delicate, which requires greater caution, deliberation and sound discretion, or more dangerous in a doubtful case, than the issuance of an injunction. It is the strong arm of equity that should never be extended unless to cases of great injury, where courts of law cannot afford an adequate or commensurate remedy in damages.

Every court should remember that an injunction is a limitation upon the freedom of action of the defendant and should not be granted lightly or precipitately. It should be granted only when the court is fully satisfied that the law permits it and the emergency demands it." (Emphasis in the original)

Courts should avoid issuing a writ of preliminary injunction which would in effect dispose of the main case without trial.[36] In issuing the writ of preliminary injunction, the trial court did not maintain the status quo but restored the situation before the status quo, that is, the situation before the issuance of the RTAOs. In effect, the trial court accepted respondents' premise about an unlawful reorganization and prejudged the constitutionality of the questioned issuances (EO 430, RMO 57-97 and RTAO 28-97 and 1-98 to 35-98).

The trial court's ruling was a reversal of the rule on the burden of proof since it assumed the proposition which the respondents here were bound to prove. Moreover, the trial court's grant of the writ of preliminary injunction in favor of respondents despite the lack of a clear and unmistakable right on their part constitutes grave abuse of discretion amounting to lack of jurisdiction.

WHEREFORE, we GRANT the petition. The Decision of the Court of Appeals dated 29 September 1999 in CA-G.R. SP No. 47354 is SET ASIDE. The Order dated 6 April 1998 and the corresponding writ of preliminary mandatory injunction dated 7 April 1998, both issued by Branch 77 of the Regional Trial Court of Quezon City in Civil Case No. Q-97-32928, are declared VOID.

SO ORDERED.

Quisumbing, (Acting Chairman), Ynares-Santiago, and Azcuna, JJ., concur. Davide, Jr., C.J., (Chairman), on leave.

[1] Under Rule 45 of the Rules of Court.

- [2] Penned by Associate Justice Bennie Adefuin-De La Cruz, with Associate Justices Roberto A. Barrios and Mariano M. Umali, concurring.
- [3] Penned by Judge Vivencio S. Baclig.
- [4] CA Rollo, pp. 92-96.
- [5] Ibid., pp. 97-104.
- [6] See Rollo, p. 65.
- [7] CA Rollo, pp. 112-133.
- [8] Rollo, p. 141.
- [9] CA Rollo, pp. 134-139.
- [10] Ibid., pp. 140-154.
- [11] The Tax Reform Act of 1997.
- [12] CA Rollo, pp. 156-169.
- [13] Ibid., pp. 171, 174.
- [14] Ibid., pp. 172-173.
- [15] Ibid., pp. 175-183.
- [16] Ibid., pp. 184-189.
- [17] Ibid., p. 250.
- [18] Ibid., pp. 251-253.
- [19] Ibid., pp. 254-256.
- [20] Ibid., p. 190.
- [21] Ibid., pp. 34, 40-57.
- [22] See CA Rollo, pp. 89-90.
- [23] Ibid., p. 191.
- [24] Ibid., p. 36.
- [25] Rollo, pp. 85-86.
- [26] Searth Commodities Corp. v. Court of Appeals, G.R. No. 64220, 31 March 1992, 207 SCRA 622.
- [27] CA Rollo, pp. 97, 101-102.
- [28] Administrative Code of 1987, Executive Order No. 292, Book V, Title I, Sub-Title A, Chapter 5, Section 26(3). See Hon. Vinzons-Chato v. Hon. Natividad, 314 Phil. 824 (1995); Dept. of Education, Culture and Sports v. Court of Appeals, G.R. No. 81032, 22 March 1990, 183 SCRA 555.
- [29] G.R. No. 137034, 23 February 2004 citing Bangus Fry Fisherfolk v. Lanzanas, G.R. No. 131422, 10 July 2003, 405 SCRA 530.

[30] Hon. Vinzons-Chato v. Hon. Natividad, 314 Phil. 824 (1995).

[31] G.R. No. 81356 and 86156, 26 February 1990, 182 SCRA 692.

[32] CA Rollo, pp. 97, 101, 102.

[33] CA Rollo, p. 317.

[34] Bustamante v. Court of Appeals, 430 Phil. 797 (2002).

[35] G.R. No. 118249, 14 February 2003, 397 SCRA 348 citing Gov. Garcia v. Hon. Burgos, 353 Phil. 740 (1998).

[36] Rivas v. Securities and Exchange Commission, G.R. No. 53772, 4 October 1990, 190 SCRA 295.

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.