

**PHILIPPINE PORTS AUTHORITY, PETITIONER, VS. PIER 8 ARRASTRE
& STEVE- CHICO-NAZARIO, JJ. DORING SERVICES, INC.,
RESPONDENTS.**

G.R. No. 147861. November 18, 2005

Ponente: TINGA, J.

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TINGA, J.:

These consolidated cases stem from the purported exercise of police power by the Philippine Ports Authority ("PPA") in ousting operators of several arrastre and stevedoring services from their respective piers in the Manila North Harbor. Matters were complicated on account of procedural fiascos that occurred at the Court of Appeals level in both cases.

After distilling peripheral procedural infirmities, two issues remain for resolution. G.R. No. 147861, brought to this Court via a Petition for Review under Rule 45 of the Revised Rules on Civil Procedure, necessitates a determination of the legality of the issuance of a writ of preliminary injunction against PPA's takeover of port services. On the other hand, at issue in the Petition for Certiorari under Rule 65 of the Revised Rules on Civil Procedure docketed as G.R. No 155252 is the correctness of the Court of Appeals' taking cognizance in contempt proceedings of a matter pertaining to the parties' possessory rights already subject of the aforementioned appeal under Rule 45.

The following facts are culled from the records.

In the late 1990's, then President Joseph E. Estrada issued a directive for the modernization of the North Harbor towards unification and rationalization of all facility operators and service providers.[1] As the government agency vested with the authority "to coordinate, streamline, improve, and optimize the planning, development, financing, construction, maintenance and operation of ports, port facilities, port physical plants, all equipment used in connection with the operation of a port"[2] and "[t]o supervise, control, regulate, construct, maintain, operate, and provide such facilities or services as are necessary in the ports vested in, or belonging to the Authority,"[3] it fell upon the PPA to implement the presidential edict. However, the plan for modernization, which required the North Harbor to be run by a single entity, encountered strong opposition including resistance from North Harbor port workers.

On 13 April 2000, PPA received information from a press release by the Asosasyon ng mga Mangagawa sa Pantalan, comprising 95% of the North Harbor work force, that it would stage a strike starting 19 April 2000 which would sufficiently paralyze the whole of the North Harbor.[4] PPA recounts that several days prior to this announcement, port workers carried out a publicized strike plan by performing a protest march towards Malacañan Palace.[5]

According to PPA, these circumstances prompted it to issue on 14 April 2000 Memorandum Order No. 07-2000 creating the PPA North Harbor Services ("PPA-NHPS") to take over cargo handling operations and obviate an interruption of port operations.

On the eve of the planned strike, PPA, aided by a team of SWAT members of the Western Police District, began forcibly occupying several ports in the North Harbor. By around 1:00 a.m. on 16 April 2000, PPA had taken over operations at Piers 6, 8, 12, 14, Terminal 16 and Marine Slipway, and later that morning, Isla Puting Bato.

On 19 April 2000, respondent Pier 8 Arrastre and Stevedoring Services, Inc., ("PASSI")—the service provider dispossessed of Pier 8—filed a complaint for Injunction with Damages with prayer for temporary restraining order (TRO) and writ of preliminary injunction docketed as Civil Case No. 00-97157 and raffled to the sala of Judge Zenaida R. Daguna, Regional Trial Court ("RTC") of Manila, Branch 19.

For its part, PASSI had been rendering arrastre and stevedoring services at Pier 8 since 1974. Its latest contract expired on 14 April 1997,[6] three years before PPA took over Pier 8. PASSI filed a request for the renewal of its contract which was never formally acted upon by PPA. Thus, PASSI was operating at Pier 8 in a holdover capacity up until PPA's takeover.

On 24 April 2000, the RTC granted PASSI's application for a TRO. However, in a subsequent order[7] dated 3 May 2000, the lower court set aside the TRO and denied the preliminary injunction prayed for by PASSI. The RTC applied Section 1, Presidential Decree (P.D.) No. 1818, which provides that "[n]o court shall have jurisdiction to issue any restraining order, preliminary injunction, or preliminary mandatory injunction in any case, dispute, or controversy involving...any public utility operated by the government, including among others public utilities for the transport of the goods or commodities, stevedoring and arrastre contracts...."[8] A Motion for Reconsideration was denied for lack of merit in an Order[9] dated 20 June 2000.

This prompted PASSI to file on 5 July 2000 with the Court of Appeals a Petition for Certiorari under Rule 65 of the Revised Rules of Civil Procedure asking that a TRO/temporary mandatory order be issued against PPA and its representatives and that the RTC's interlocutory orders dated 3 May 2000 and 20 June 2000 annulled and set aside.[10] The case was docketed as CA-G.R. SP No. 59548.

On 6 September 2000, the Court of Appeals issued the TRO prayed for by PASSI. It directed PPA "to cease and desist from continuing its takeover of the operations of [PASSI] at Pier 8 and, from molesting, disturbing and/or interfering PASSI's operations thereof." [11]

On 11 September 2000, PASSI filed before the Court of Appeals a Petition to Cite in Contempt certain PPA officials. The petition, docketed as CA-G.R. SP No. 60670,[12] alleged that named PPA officials had committed and were continuing to commit acts to molest, disturb and interfere with the operation of PASSI at Pier 8 despite their receipt of the TRO dated 6 September 2000.

Returning to the certiorari petition assailing the RTC's interlocutory order, on 7 November 2000, the Court of Appeals granted PASSI's application for the issuance of a writ of preliminary injunction.[13]

On 9 January 2001, the Court of Appeals rendered a Decision[14] in CA-G.R. SP No. 59548 which not only set aside the orders of the RTC in Civil Case No. 00-97157 but further made permanent its own writ of preliminary injunction issued on 7 November 2000. PPA filed a Motion for Reconsideration[15] on 30 January 2001.

The Court of Appeals *motu proprio* consolidated CA G.R. SP No. 60670 with CA-G.R. SP No. 59548 through a Resolution dated 16 January 2001.[16] It denied PPA's Motion for Reconsideration via a Resolution on 6 April 2001.[17]

On 4 June 2001, PPA filed with this Court a Petition for Review under Rule 45 of the Revised Rules on Civil Procedure, assailing the Court of Appeals' Decision dated 9 January 2001 and its Resolution dated 6 April 2001. The petition contained an urgent plea for the issuance of a TRO and/or preliminary mandatory injunction to

restrain the Court of Appeals from implementing the questioned decision. The case was docketed as G.R. No. 147861.

Meanwhile, the proceedings in the contempt case continued before the Court of Appeals. PASSI filed therein an Urgent Motion[18] dated 22 August 2002 informing the appellate court that Solid Shipping Lines Corporation, which normally docked its vessels at Pier 8, had written to PPA requesting permission to berth four of its vessels at Pier 6. Portraying the request as a concoction of PPA and its officers in cooperation with Solid Shipping Lines Corporation to molest, interfere or disturb PASSI's operations at Pier 8, PASSI urged the Court of Appeals to require PPA and its respondent officers in the contempt case to strictly abide with the TRO and writ of injunction and to maintain the status quo by denying the request of Solid Shipping Lines Corporation to berth four of its vessels at Pier 6. The Court of Appeals granted PASSI's motion in a Resolution[19] dated 4 September 2002.

On 2 October 2002, PPA filed with this Court a Petition for Certiorari and Prohibition with Urgent Plea for Temporary Restraining Order and/or Writ of Preliminary Injunction assailing the Court of Appeals' Resolution in the contempt case. The case was docketed as G.R. No. 155252.

This Court did not act on the prayer for TRO/preliminary injunction. On 31 August 2004, we motu proprio consolidated G.R. No 155252 with G.R. No. 147861.

Before moving on to the main issues of the consolidated cases, it is important that we first tackle the procedural mishap that occurred at the Court of Appeals' level.

G.R. No. 147861 originated from PASSI's petition for certiorari before the Court of Appeals under Rule 65 of the Revised Rules on Civil Procedure. Said petition assailed the validity of the RTC's Order dated 3 May 2000 denying petitioner's prayer for preliminary injunction[20] based on the court's application of P.D. No. 1818. The Petition for Certiorari before the Court of Appeals sought the following reliefs:

- This petition be given due course and a Temporary Restraining Order/Temporary Mandatory Order be issued forthwith by this honorable Court ordering respondent PPA, its representatives and agents to cease and desist from continuing its takeover of the operations of petitioner PASSI at Pier 8 and ordering PPA to immediately surrender the operations of the same to PASSI.
- After proceedings, judgment be rendered ANNULING and SETTING ASIDE the Orders of respondent judge dated May 3, 2000 and June 20, 2000.

Petitioner likewise prays for such other reliefs just and equitable under the premises.[21] (Emphasis supplied.)

In its Decision, the Court of Appeals explained the parameters of the original action before it in this wise, viz.:

Assailed before Us is the Order dated 3 May 2000 of the RTC of Manila in Civil Case No. 00-97157, denying petitioner's prayer for a writ of preliminary injunction, as well as the order dated 20 June 2000 denying petitioner's motion for reconsideration. Citing grave abuse of discretion as the main ground of their petition, Pier 8 Arrastre & Stevedoring Services, Inc., comes and prays for the setting aside and the annulment of the said orders.[22]

However, after setting aside the RTC's orders, the Court of Appeals proceeded to rule on the issue of which party has the better possessory right over Pier 8—a matter which is beyond its jurisdiction to resolve given the nature of the action before it and the issues raised therein. The Decision is void to that extent.

Moreover, we cannot sustain the grant of preliminary injunction as ordered by the Court of Appeals. As a rule, an application for preliminary injunction entails a determination of whether the requisites provided in Rule 58 of the Revised Rules on Civil Procedure for the issuance of the provisional remedy are extant. In the instant case,

however, the impact of P.D. No. 1818—the law which proscribes court injunctions on government projects—must also be taken into account as said law specifically excludes arrastre and stevedoring contracts along with other activities from the sphere of the injunctive power of the courts.[23] Consequently, both issues are determinants of the sustainability of the Court of Appeal's decision and the parameters of its jurisdiction in the original action on certiorari.

The requisites to justify an injunctive relief are: (a) the existence of a right in esse or the existence of a right to be protected; and (b) the act against which injunction is to be directed as a violation of such right.[24] A preliminary injunction is proper only when the plaintiff appears to be entitled to the relief demanded in his complaint.[25]

PASSI admits that its contract has expired and that it is merely occupying and operating at Pier 8 in a holdover capacity.[26] Thus, PASSI's rights over Pier 8 arise not from contractual relations with the PPA, or a statutory grant of authority, but merely by the tolerance of the PPA. Tolerance is not the surest footing on which a right in esse can be established.

In fact, we have already held in *Pernito Arrastre Services v. Mendoza*[27] that PPA may legally oust arrastre and stevedoring operators even when the latter had been

conferred with "holdover permits" should the exigencies of public interest so require. Taking off from the earlier ruling in *Anglo-Fil Trading Corporation v. Lazaro*,[28] the Court elucidated, thus:

In the case of *Anglo-Fil Trading Corporation v. Lazaro* (124 SCRA 494, 512, 513 and 519), we have already underscored the fact that the arrastre operations in the various ports in the Philippines are affected with public interest. We ruled:

. . . .

"The Manila South Harbor is public property owned by the State. The operations of the premiere port of the country, including stevedoring work, are affected with public interest. Stevedoring services are subject to regulation and control for the public good and in the interest of general welfare."

Undoubtedly, therefore, the State in the exercise of its police power through its agency, the PPA, has the power to revoke the temporary permits of petitioners, assuming the existence of valid temporary permits, and take over the operations of the port of Tacloban whenever the need to promote the public interest and welfare both of the stevedoring industry and the workers therein justifies such take over. This Court has already ruled that the statute which gives PPA the authority to implement the take over cannot be assailed on the constitutional grounds raised by the petitioners. Thus, whatever right, if any, that the petitioners may have acquired on the basis of the temporary permits earlier given them must yield to the State's valid exercise of police power.

. . . .

Furthermore, the records will bear out the fact that only petitioner LIPSI has a temporary permit issued by PPA. The rest of the petitioners were either merely allowed or tolerated to operate in the port of Tacloban. However, even on the assumption that all of them were able to secure temporary permits from PPA, still, this does not vest any property right on them and hence, petitioners cannot allege a violation of their right to non-deprivation of property without due process of law.

In the case of *Anglo-Fil Trading Corporation v. Lazaro*, (supra, pp. 502-521), we ruled:

. . . .

In the first place, the petitioners were operating merely on 'hold-over' permits . . .

Clearly, all hold-over permits were by nature temporary and subject to subsequent policy guidelines as may be implemented by PPA. Such should have served as sufficient notice to petitioners that, at any time, their authorities may be terminated.

Whether or not the petitioner would be issued a PTO depended on the sound discretion of PPA and on the policies, rules and regulations that the latter may implement in accordance with the statutory grant of power. Petitioners, therefore, cannot be said to have been deprived of property without due process of law because, in this respect, what was given them was not a property right but a mere privilege and they should have taken cognizance of the fact that since they have no vested right to operate in the South Harbor, their permits can be withdrawn anytime the public welfare deems it best to do so.[29] (Emphases supplied.)

The diminished nature of any right of possession PASSI may have by reason of its "holdover capacity" is mandated by precedent. The right of the PPA to take over port facilities from operators whose contracts have expired is indubitable. Moreover, PASSI cannot invoke any vested property rights that may translate into a right in esse.

It is argued that PASSI's contract to operate at Pier 8 is equivalent to a grant of a license and that such license is continuous in nature pursuant to Section 18, Chapter 3, Book VII of the Administrative Code, which provides that "where the licensee has made timely and sufficient application for the renewal of a license with reference to any activity of a continuing nature, the existing license shall not expire until the application shall have been finally determined by the agency." [30] However, this argument is of some consequence only in the adjudication of the main case still pending before the lower court, if not downright unconvincing for the present nonce.

PASSI notes that the strike was directed at PPA, not PASSI, and that PPA knew that the strike had been called off but still pushed through with the takeover anyway. It observes further that since its workforce were not members of the *Asosasyon ng mga Mangagawa sa Pantalan* it would not have been affected and operations at Pier 8 would have proceeded without interruption had the strike pushed through. PASSI also banks on the fact that other piers were not taken over by PPA in a bid to cast doubts on the underlying reason for the takeover. Finally, it points out that PPA had no workforce of its own and was thus compelled to utilize the same workforce that had threatened to stage the strike. From the foregoing ruminations, PASSI concludes that the "supposed impending strike was merely used by PPA as a convenient excuse for its forcible takeover" [31] and that "the measures taken by PPA have no reasonable nexus or connection with the problem it allegedly sought to solve." [32] PASSI also employed the same approach before the Court of Appeals and the latter fell for it. [33]

The least that could be said of PASSI's claims comprising its approach is that they are purely speculative and cannot be the basis for declaring the official acts of PPA invalid. PASSI cannot be allowed to second guess PPA's strategy to obviate disruptions in the port if the strike had pushed through. The fact remains that after the PPA takeover was effected, the feared strike did not materialize.

As a basic matter, however, PPA does not even need to stage a complicated ruse merely to effect a valid takeover. Pursuant to its charter, PPA has the necessary police power to regulate the country's ports which are vital to the free-flow of goods in and out of the country. This, coupled with the fact that PASSI did not even have the benefit of a "holdover permit" but was merely operating Pier 8 in a "holdover capacity" and thus may be ejected by PPA at any time after notice.

In the light of the foregoing, it cannot be said with a degree of conviction that PASSI has presented a right in esse that can served as basis for the issuance of a preliminary injunction in its favor.

More importantly, even if PASSI had been able to establish a basis upon which a preliminary injunction could be issued under Rule 58 of the Revised Rules on Civil Procedure, the application of P.D. No. 1818 would override

the right to an injunctive remedy. P.D. No. 1818 deprives the courts of jurisdiction to issue any preliminary injunction or temporary restraining order on essential government projects, including arrastre and stevedoring operations.[34]

On the other hand, the Court of Appeals was of the view that P.D. No. 1818 does not apply in this instance because, as it explained, PPA's takeover, "anchored on a bogus strike is the very reason why the operations in Pier 8 would be disrupted and hampered. By and far, even if [PASSI] were operating under a holdover capacity, elementary notions of due process and fair play would dictate a contrary action from [PPA]." [35]

Unfortunately, the Court of Appeals paid no heed to established jurisprudence that there are only two exceptional circumstances which warrant the non-observance of P.D. No. 1818, namely: (1) where there is clear grave abuse of discretion on the part of the government authority or private person being enjoined, and (2) where the effect of the non-issuance of an injunction or a restraining order would be to "stave off implementation of a government project." [36]

Obviously, the subject situation does not present itself as an instance where the non-issuance of an injunctive writ would itself inhibit the implementation of a government project. In fact, the non-issuance of an injunctive writ would allow PPA to run Pier 8 in the manner it deems fit instead of having a court-imposed extension of "holdover" operations by PASSI.

Was there grave abuse of discretion by the PPA which would have excluded the application of P.D. No. 1818? As earlier observed, the Court of Appeals has no factual basis to conclude that the strike was bogus. It engaged in speculation when it concluded that the takeover would be the reason for disruption in the operations in Pier 8. The imputed due process violation by the PPA, based on the foregoing hollow allegations, cannot be affirmed. There is, thus, no basis for any pronouncement of grave abuse of discretion by the PPA.

The appellate court's intimation of disregard of due process on PPA's part, if proven, may be the basis for an award for damages but not for the issuance of an injunctive writ. Factual and legal determinations are essential for the adjudication of the matter. As such, it must be dealt with in the main case, if not in a separate action. In the case at bar, this unsubstantiated claim of non-observance of due process cannot be equated to a right in esse nor warrant the non-observance of the proscription injunction against government contracts or projects under P.D. No. 1818.

The prevailing rule is that the courts should avoid issuing a writ of preliminary injunction that would in effect dispose of the main case without trial.[37] Otherwise, there would be a prejudgment of the main case and a reversal of the rule on the burden of proof since it would assume the proposition which petitioners are inceptively bound to prove.[38] Indeed, a complaint for injunctive relief must be construed strictly against the pleader,[39] especially when the factual grounds relied upon are mere suppositions which definitely cannot militate against the exercise of police power by the regulatory body charged with the duty "to supervise, control, regulate, construct, maintain, operate, and provide such facilities or services as are necessary in the ports...." [40]

Moreover, the grant or denial of a preliminary injunction is discretionary on the part of the trial court. In the resolution of the Rule 65 petition assailing the RTC's orders, the Court of Appeals should have determined if the assailed issuances were issued with grave abuse of discretion amounting to a lack or excess of jurisdiction.[41] It did not. All that it ascribed to the RTC is "error." [42]

We have repeatedly held that there is grave abuse of discretion justifying the issuance of the writ of certiorari when there is a capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, as where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility

amounting to an evasion of positive duty or to a virtual refusal to perform the duty enjoined, or to act at all in contemplation of law.[43] It is clear from the foregoing discussions that the Order issued by the Manila RTC, Branch 12, was nothing of the sort. On the contrary, its ruling on the application of P.D. No. 1818 exhibited the exercise of its sound discretion. Injunction is the strong arm of equity which must be issued with great caution and deliberation, and only in cases of great injury where there is no commensurate remedy in damages.[44]

Note, however, that the foregoing only pertains to the question of the propriety of issuing a provisional remedy of injunction against PPA's takeover. The ultimate substantive possessory rights between the parties is a matter still to be determined in a full-blown trial where relevant matters may be discovered by a finder of facts and all issues raised by parties fully threshed out.

Thus, in resolving G.R. No. 147861, we hold the preliminary injunction against PPA's takeover must be lifted. Moreover, the Court of Appeals' Decision and its affirmatory Resolution are held void ab initio insofar as the appellate court acted in excess of its jurisdiction in ruling on the principal case on the merits. The determination of which party ultimately has the better right to possession and operation of Pier 8 is still pending adjudication before the Manila RTC, Branch 12, in the main case—Civil Case No. 00-97157.

We turn now to G.R. No. 155252 in which PPA assails the Court of Appeals' Resolution directing PPA to deny the request of Solid Shipping Lines Corporation for permission to berth in Pier 6.

Even here, procedural infirmities hound the Court of Appeals' actions. It confounds us why despite the Court of Appeals' motu proprio consolidation of CA-G.R. SP No. 5958 with CA G.R. SP No. 60670, it did not resolve the consolidated cases in one decision or even elevate the consolidated cases in their entirety to this Court when PPA appealed the Decision dated 9 January 2001. The consolidation of the cases was rendered ineffectual by this lapse. Worse, an anomalous situation ensued wherein the appealed part of the consolidated cases went up to this Court while the contempt part remained under the cognizance of the Court of Appeals. Which leads us back to the question—was the Resolution of the Court of Appeals in the contempt proceedings valid?

As a contempt court, the Court of Appeals had jurisdiction only over the parties to the contempt case, i.e., the petitioner – PASSI, and the respondents – several PPA officials charged with having received the Court of Appeals' TRO dated 6 September 2000 and yet continued to commit acts to molest, disturb, and interfere with PASSI's operation of Pier 8. PPA was never impleaded. The Court of Appeals had no jurisdiction over the person of PPA as the latter was never impleaded as a party to the case. It, thus, could not effectively command PPA to deny the request of Solid Shipping Lines Corporation.

Moreover, the Court of Appeals' Resolution was issued on 4 September 2002, a year after this Court had given due course to PPA's appeal of the Decision pertaining to the parties' preliminary possessory rights. Acting as a contempt court in a situation where the contempt case was merely an offshoot of a matter already pending with this Court, the Court of Appeals' jurisdiction was limited to its mandate to determine whether respondents therein committed acts in defiance of the subject TRO. This is especially true since the petition for review before this Court includes a prayer for the issuance of a TRO/preliminary injunction to restrain the Court of Appeals from implementing its Decision affirming PASSI's right to possess and operate at Pier 8. But the issues alleged on possessory rights had been elevated to this Court. By ruling on matters pertaining to preliminary possessory rights, the Court of Appeals exceeded its own jurisdiction and encroached on this Court's as well.

Thus, we hold that the Resolution issued by the Court of Appeals dated 4 September 2002 was rendered beyond its jurisdiction as a contempt court.

PASSI submits that PPA has no personality to question the Resolution dated 4 September 2002. This is obviously

not the case since the issuance not only restricted but also encroached on PPA's discretion in regulating Philippine ports and port activities. An original action for certiorari may be filed by a person aggrieved^[45] by the assailed issuance.

PASSI's objection to PPA's resort to a petition for certiorari without the prior submission of a motion for reconsideration of the Court of Appeals' Resolution need not be belabored. The present petition falls under several exceptions to the rule requiring the prior filing of a motion for the reconsideration of the assailed ruling. Where the Resolution complained of was issued in excess of or without jurisdiction^[46] on a matter of public interest^[47] and in an apparent case of urgency,^[48] a previous motion for reconsideration is unnecessary.

WHEREFORE, the Petition for Review in G.R. No. 147861 is GRANTED. The assailed Court of Appeals Decision dated 9 January 2001 and its Resolution dated 6 April 2001 are ANNULLED and SET ASIDE insofar as they purport to rule on the parties' ultimate possessory rights. The writ of preliminary injunction issued by the Court of Appeals is DISSOLVED. The Petition for Certiorari in G.R. No. 155252 is GRANTED. The Court of Appeals' Resolution dated 4 September 2002 directing the Philippine Ports Authority to deny the request of Solid Shipping Lines to berth in Pier 6 is ANNULLED and SET ASIDE. The Regional Trial Court of Manila, Branch 12, is directed to hear and decide Civil Case No. 00-97157 on the merits with utmost dispatch.

No pronouncement as to costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Callejo, Sr., JJ., concur.
Chico-Nazario, J., on leave.

[1] Executive Order No. 59, s. 1998, "Directing the Philippine Ports Authority to Adopt and Implement a Program for Further Rationalization, Modernization and Improvement of Port Services and Facilities in Government Ports.

[2] Presidential Decree No. 857, s. 1975 Section 2(a).

[3] *Id.* at Section 6(a)(ii).

[4] *Id.* at 27. See also p. 75.

[5] Rollo of G.R. No. 147861, p. 26.

[6] *Id.* at 39.

[7] *Id.* at 114-115.

[8] The complete provision provides: No Court in the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction, or preliminary mandatory injunction in any case, dispute, or controversy involving an infrastructure project, or a mining, fishery, forest or other natural resource development project of the government, or any public utility operated by the government, including among others public utilities for the transport of the goods of commodities, stevedoring and arrastre contracts, to prohibit any person or persons, entity or government official from proceeding with, or continuing the execution or implementation of such public utility, or pursuing any lawful activity necessary for such execution, implementation or operation.

[9] Rollo, G.R. No. 147861, p. 148

[10] *Id.* at 165

[11] *Id.* at 173-174.

[12]Rollo, G.R. No. 155252, pp. 10-11.

[13]Rollo, G.R. No. 147861, pp. 267-272.

[14]Penned by Associate Justice Bernardo P. Abesamis and concurred in by Associate Justices Godardo A. Jacinto and Alicia L. Santos of the Ninth Division. Id. at 60-66.

[15]Rollo, G.R. No. 155252, pp. 119-133.

[16]Id. at 109-111.

[17] Id. at 134-135.

[18]Id. at 176-182.

[19]Penned by Associate Justice Bernardo P. Abesamis and concurred in by Associate Justices Godardo A. Jacinto and Eliezer R. de los Santos of the Former Ninth Division. Id. at 42-44.

[20] The petition also assailed the order dated 20 June 2000 denying PASSI's motion for reconsideration.

[21] Rollo, G.R. No. 147861, p. 165.

[22] Id. at 60.

[23]Pres. Decree No. 1818, Sec. 1; see note 8.

[24] Philippine Sinter Corporation v. Cagayan Electric Power and Light Co., Inc., 431 Phil. 324 (2002).

[25] Buayan Cattle Co., Inc. v. Hon. Jesus Quintillan, 213 Phil. 244, 253-254 (1984).

[26] Rollo, G.R. No. 147861, p. 357.

[27]230 Phil. 503 [1986].

[28] 209 Phil. 400 [1983].

[29]Id. at 515-17.

[30] Rollo, G.R. No. 147861, p. 378.

[31]Id. at 364.

[32]Id. at 369.

[33] The Court of Appeals stated that " [the strike] was merely used as a convenient reason for the PPA's forcible takeover." Id. at 62.

[34] Rep. Act No. 8975, "An Act To Ensure The Expeditious Implementation And Completion Of Government Infrastructure Projects By Prohibiting Lower Courts From Issuing Temporary Restraining Orders, Preliminary Injunctions Or Preliminary Mandatory Injunctions, Providing Penalties For Violations Thereof, And For Other Purposes," later repealed or amended accordingly inconsistent provisions of P.D. No. 1818.

[35] Rollo, p. 64.

[36] PPA v. Court of Appeals, 323 Phil. 260, 292-293 (1996).

[37] Levi Strauss & Co. & Levi Strauss (Phils.), Inc. v. Clinton Apparelle, Inc., G.R. No. 138900, 20 September 2005 citing Searth Commodities Corp. v. Court of Appeals, G.R. No. 64220, 31 March 1992, 207 SCRA 622,

629.

[38] Ibid.

[39] Buayan Cattle Co., Inc. v. Hon Jesus Quintillan, *supra* note 25.

[40] Pres. Decree No. 85, Sec. 6(a)(ii).

[41] REVISED RULES OF CIVIL PROCEDURE, Section 1, Rule 56.

[42] Rollo, G.R. No. 147861, p. 64.

[43] Federation of United Namarco Distributors, Inc., v. National Marketing Corporation, 114 Phil. 802, 824-825 [1962].

[44] Levi Strauss & Co. & Levi Strauss (Phils.), Inc. v. Clinton Apparelle, *supra* note 37, citing University of the Philippines v. Hon. Catungal Jr., 338 Phil. 728, 743 (1997).

[45] REVISED RULES ON CIVIL PROCEDURE, Rule 65, Sec. 1.

[46] See C.T. Torres Enterpreises, Inc. v. Hibionada, G.R. No. 80916, 9 November 1990, 191 SCRA 1990, where it was held that a motion for reconsideration may be dispensed with if the issue raised is a question of law such as one raising lack of jurisdiction.

[47] J. FERIA, CIVIL PROCEDURE ANNOTATED, Vol. 2, 2001 ed., p. 473.

[48] Ibid.

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