

HONORABLE SECRETARY EMILIA T. BONCODIN OF THE DEPARTMENT OF BUDGET AND MANAGEMENT (DBM), PETITIONER, VS. NATIONAL POWER CORPORATION EMPLOYEES CONSOLIDATED UNION (NECU), RESPONDENT.

G.R. NO. 162716. September 27, 2006

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PANGANIBAN, CJ:

Injunction is an extraordinary peremptory remedy available only when the claimant can show a clear and positive right that must be protected. When the alleged right is unclear or dubious, the injunctive writ cannot be granted. As the present respondent has not proved a clear legal right to the salary step increments in question, the lower court is deemed to have gravely abused its discretion when it issued the Writ of Preliminary Injunction.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the November 25, 2003 Decision[2] and the March 4, 2004 Resolution,[3] both rendered by the Court of Appeals (CA) in CA-GR SP No. 74694.

The assailed Decision upheld the Writ of Preliminary Injunction issued by the Regional Trial Court of Quezon City, Branch 78, in its Resolutions[4] dated September 25, 2002, and October 29, 2002, in Civil Case No. Q-02-47615. The questioned writ enjoined the implementation of National Power Corporation's Board Resolution No. 2002-81 passed on July 24, 2002, and confirmed on August 14, 2002; Secretary Emilia T. Boncodin's Letter Memorandum dated May 8, 2002; and Corporate Auditor Norberto Cabibihan's Memorandum Circular dated June 5, 2002.

The assailed Resolution denied reconsideration.

The Facts

The CA summarized the undisputed facts as follows:

"On [October 8, 2001], the Board of Directors of NAPOCOR issued Board Resolution No. 2001-113 amending Board Resolution No. 99-35 which granted the Seniority in Position Pay. Board Resolution No. 99-35 granted a step increment to all qualified NAPOCOR officials and employees who have been in their position for ten (10) years effective calendar year 1999. On the other hand, Board Resolution No. 2001-113 reduced the ten (10) year requirement to three (3) years.

"On [November 12, 2001], then President of NAPOCOR, Jesus Alcorido, issued Circular No. 2001-51 providing for the implementing rules and regulations of Board Resolution No. 2001-113. On May 6, 2002, the NAPOCOR Officer-in-Charge, President and Chief Executive Officer, Roland Quilala, issued Circular No. 2002-22 providing for additional guidelines relative to the implementation of the step increment based on

length of service in the position to qualified NAPOCOR officials and employees.

"On [November 26, 2001], petitioner furnished a letter addressed to Mr. Alcorido informing the latter that NAPOCOR's request for clearance to implement Joint CSC-DBM Circular No. 1, s. 1990 which is the basis of Board Resolution No. 2001-113 cannot be given due course for lack of legal basis. In essence, petitioner holds that the grant of step increment based on length of service is an additional benefit under a different name since NAPOCOR has already been granting seniority pay based on the length of service as embodied in the Collective Negotiation Agreement (CNA). In addition, petitioner said that the grant of step increment is not applicable to the salary plan of NAPOCOR considering its higher salary rates [compared with that of the existing government pay plan]. Lastly, petitioner told Mr. Alcorido of the budget implication of the grant of said proposal which she estimated to cost as high as Eighty Four Million Pesos (P84,000,000.00).

"Based on the petitioner's foregoing letter, the Corporate Auditor of NAPOCOR, Norberto Cabibihan, issued a Memorandum [dated June 5, 2002] to Roland Quilala, NAPOCOR Officer-in-Charge, enjoining him to suspend/stop payment of the step increment as embodied in NPC Circular No. 2001-51 dated [November 12, 2001], [effective July 2002]. He also requested the suspension of the implementation of NPC Circular No. 2002-22 dated [May 6, 2002]. He warned that succeeding payments of the step increment shall be automatically disallowed.

"On [June 21, 2002], Mr. Quilala issued a Memorandum enjoining concerned officials to suspend the processing of the succeeding step increment based on length of service resulting from the application of Sections 2.2 (c) and 2.2 (d) of Circular No. 2002-22.

"On [July 24, 2002], the NAPOCOR Board of Directors issued Board Resolution No. 2002-81 revising the implementation of the Step Increment, the pertinent portion of which reads:

"NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, That the recommendations of the Department of Budget and Management (DBM), as explained by the Honorable Secretary and Director of NP Board, Emilia T. Boncodin, relative to the submitted Revised Implementation of the Step Increment due to Length of Service in the position of the NPC employees, to cover the following:

"1)

Pure seniority benefits counted as one (1) step increment for every three (3) years of service in the present position, covering from years 1994 up to 2001 or two (2) steps increment only;

"2)

Rollback of basic monthly salary for NPC personnel who have been recipients of the step increase due to length of service in their present position in excess of the two steps increment granted in the above paragraph to qualified employees and officials, and Corrective Salary Adjustment (CSA) effective September 1, 2002; and

"3)

No payback by the NPC officials and employees who were granted salary differentials covering the period October 2001 up to August 2002. Approval of all this and the above benefits will be sought from the Office of the President, Malacañang, upon assurance by the Secretary of the Department of Budget and Management (DBM) that a favorable endorsement in support thereof will be made, x x x and are hereby approved; x x x"

"Believing that NPC Circular Nos. 2001-51 and 2002-22 are within the bounds of law and that they have already acquired a vested right in it, [respondent National Power Corporation Employees Consolidated Union (NECU) filed a Petition for Prohibition with Application for TRO/Preliminary Injunction before the Regional Trial Court in Quezon City on [August 27, 2002].

"On [August 30, 2002], public respondent [Judge Percival Mandap Lopez, of Branch 78, Regional Trial Court of Quezon City] issued an Order granting private respondent's prayer for the issuance of a Temporary Restraining Order and setting the hearing of the application for the issuance of a writ of preliminary injunction on [September 9, 2002]. However, it appears that in lieu of oral arguments, the parties opted to file their respective position papers and memoranda on the matter.

"Hence, on [September 25, 2002], public respondent issued the first assailed Resolution granting private respondent's prayer for the issuance of the writ of preliminary injunction. Public respondent held that at that stage of the proceedings, respondents therein have not shown that Circular No. 2001-51 and Board Resolution No. 2001-113, which were implemented effective [July 1, 2001], are in contravention of [any] law. He further held that a "roll back" of the salaries of all the NAPOCOR employees, while the merits of the case is yet to be heard, would result to a grave and irreparable damage to them. Thus, public respondent granted [NECU's] prayer for the issuance of the writ of preliminary injunction subject to its filing of the Injunction Bond in the amount of Eighty Four Million Pesos (P84,000,000.00) which is the budget implication of the step increment as manifested by petitioner.

"Both parties moved for the reconsideration of the Resolution. Petitioner prayed for the reversal thereof while [respondent NECU] prayed for the deletion of the Injunction Bond. Public respondent denied both motions in the second assailed Resolution dated [October 29, 2002]."[5]

Through a Petition for Certiorari under Rule 65 of the Rules of Court, petitioner sought relief from the CA. She argued that the RTC had "failed to consider the principle of non- exhaustion of administrative remedies and allowed the grant of seniority pay to NAPOCOR employees [without any legal basis]."[6]

Ruling of the Court of Appeals

The CA found no cogent reason to disturb the conclusions reached by the lower court. The appellate court ruled that the doctrine of exhaustion of administrative remedies was not a hard and fast rule. It held that the determination of whether the arguments raised by respondent fell within the exceptions to the rule was within the sound discretion of the trial court.

Adopting the RTC's ratiocinations that grave and irreparable damage would be inflicted on the employees if the writ was not granted, the Court of Appeals said:

"It is the humble view of this Court that matters of compensation, being sacrosanct and held dearly as life itself, cannot easily be trifled with, trampled upon and recalled at whim. The grim prospect of uncertainty facing the [respondents] owing to their inevitable separation from the service further compels this Court to act decisively and with dispatch while the main case is being heard."[7]

The CA, however, refused to rule on the issue of whether there was legal basis for the step increments. It believed that to do so would mean prejudging the main case pending before the trial court.

Hence, this Petition.[8]

Issues

In her Memorandum, petitioner raises the following issues for our consideration:

- Whether Rule 16 of the 1997 Rules of Civil Procedure authorized the Regional Trial Court to acquire jurisdiction over matters pending with the COA by issuing a writ of preliminary injunction, which amounts to an encroachment on the independence of the same constitutional body.
- Whether Section 16 of Republic Act No. (RA) 6758 (The Salary Standardization Law enacted on August 21,

1989) amended RA No. 6375 (NAPOCOR Charter), which authorized the Board of Directors to fix the compensation, allowance and benefits of its employees.

- Whether Sections 14 and 15 of RA 6758 mandated the DBM to review and approve NAPOCOR Board Resolution No. 2001-113 and its implementing Circular No. 2001-51 before it may be legally implemented.

- Whether NAPOCOR has the power to issue Board Resolution No. 2002-81 amending its Resolution No. 2001-113 and Circular No. 2001-51 in order to correct its previous erroneous act of implementing the latter Resolution /Circular without the requisite review and approval by the DBM.

- Whether Rule 58 of the 1997 Rules of Civil Procedure authorized the issuance of a writ of preliminary injunction even if the relief/protection applied for is the subject of controversy in the main action.

- Whether Section 1, Rule 36 of the 1997 Rules of Civil Procedure required that an Order for the issuance of a writ of preliminary injunction should state clearly and distinctly the facts and the law on which it is based."[9]

Briefly, the issues brought for resolution by this Court are (1) the propriety of the Writ of Preliminary Injunction; and (2) the legality of the step increments that were issued without the DBM's prior approval.

Considering that the second issue concerns the merits of the case pending before the trial court, the Court will limit its discussion only to the first question.

The Court's Ruling

The Petition is partly meritorious.

Sole Issue:

Propriety of the Preliminary Injunction

Exhaustion of Administrative Remedies

Initially, petitioner assails the trial court's jurisdiction to issue the Writ of Preliminary Injunction. She contends that the Petition for Prohibition filed by respondent is premature, because COA has yet to rule on whether or not to lift the suspension of the step increments granted in Napocor Board Resolution No. 2001-113 and Circular No. 2001-51. She adds that there is a need to follow the procedural requirements and processes mandated in COA's 1997 Revised Rules (COA Rules) as a condition precedent for a resort to the courts by respondent. She says further that it is not exempt from the doctrine of exhaustion of administrative remedies on the basis merely of its general assertions of irreparable injury.

We disagree.

It should be noted that shortly after Corporate Auditor Cabibihan issued the suspension Order dated June 5, 2002, the Napocor board passed Resolution No. 2002-81 on July 24, 2002, to rectify its Resolution No. 2001-113 and Circular No. 2001-51, which were issued earlier without authority from the DBM. This time, Resolution No. 2002-81, which was confirmed on August 14, 2002, bore the DBM's approval.

Under the new resolution, the step increments mentioned in the previous Resolution No. 2001-113 were limited to a maximum of two steps, and the "roll back" of salaries of all the Napocor employees who received more than the two-step increments was set to be implemented on September 1, 2002. With the circumstances then obtaining, it would have been impractical, if not illogical, for respondent to "exhaust" administrative remedies before taking court action.

Besides, the COA Rules do not clearly and explicitly prescribe the procedure for addressing respondent's Complaint against the implementation. Indeed, while Corporate Auditor Cabibihan has yet to rule on whether or not to lift the suspension order, as petitioner contends, the fact remains that Board Resolution No. 2002-81 has already modified the previous resolution, precisely to conform to COA Rules.

Even assuming arguendo that the provision exists, the appeal mechanics under the COA Rules would not constitute a speedy and adequate remedy. A remedy is considered plain, speedy and adequate if it will promptly relieve the petitioner from the injurious effects of the judgment or rule, order or resolution of the lower court or agency.[10]

A petition for prohibition is a preventive remedy and, as a rule, does not lie to restrain an act that is already fait accompli.[11] The Petition for Prohibition instituted by respondent before the trial court assailed the validity not only of petitioner's May 8, 2002 Letter Memorandum and Corporate Auditor Cabibihan's Memorandum Circular (suspension order) but, more important, it assailed Napocor Board Resolution No. 2002-81, which was to be implemented in September 2002. Given the impending "roll back" of the salaries of the affected employees, there was an urgent need for judicial intervention.[12]

Moreover, respondent's immediate resort to judicial action is justified because only legal issues are to be resolved, which are the validity of the step increments and the authority of the DBM vis-à-vis the questioned Napocor Circular and Resolution.[13]

All in all, the principle of non-exhaustion of administrative remedies is not an inflexible rule.[14] It may be dispensed with in the present case, because its application would not constitute a plain, speedy and adequate remedy. The issues here are purely legal, and judicial intervention has been shown to be urgent.

Injunctive Order

Not Properly Issued

Section 3, Rule 58 of the Revised Rules of Court, provides thus:

"Sec. 3. Grounds for issuance 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."

To be entitled to a writ of injunction, a party must establish the following requisites: (a) the right of the complainant is clear and unmistakable; (b) the invasion of the right sought to be protected is material and substantial; and (c) there is an urgent and paramount necessity for the writ to prevent serious damage.[15]

The question of whether a writ of preliminary injunction should be issued is addressed to the sound discretion of the issuing court.[16] The grant of the writ is conditioned on the existence of the movant's clear and positive right, which should be protected.[17] It is an extraordinary peremptory remedy available only on the grounds expressly provided by law, specifically Section 3 of Rule 58.

A clear legal right means one clearly founded in or granted by law or is "enforceable as a matter of law." [18]

Absent any clear and unquestioned legal right, the issuance of an injunctive writ would constitute grave abuse of discretion. [19] Injunction is not designed to protect contingent, abstract or future rights whose existence is doubtful or disputed. [20] It cannot be grounded on the possibility of irreparable damage without proof of an actual existing right. [21] Sans that proof, equity will not take cognizance of suits to establish title or lend its preventive aid by injunction. [22]

Relevantly, *Olalia v. Hizon* [23] held as follows:

"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." [24]

In the present case, respondent anchors its entitlement to the injunctive writ on its alleged legal right to the step increments. It contends that under Republic Act No. 6395 (Revised Charter of the National Power Corporation), [25] the Napocor board was empowered to fix the compensation and benefits of its employees; and to grant step increments, based on Memorandum Order No. 198 issued by then President Fidel Ramos and on Republic Act (RA) No. 7648 (otherwise known as the "Electric Power Crisis Act of 1993"). [26]

On the other hand, petitioner contends that the pertinent provision of the Napocor Charter, [27] upon which respondent bases its claimed authority from the board, has already been superseded or modified by Section 16 [28] of Republic Act No. 6758. [29] This provision mandates the DBM's review and approval of Napocor Board Resolution No. 2001-113 and Circular No. 2001-51 prior to their implementation. Hence, because these issuances were implemented without the DBM's mandatory review and approval, they cannot be made the source of any right whatsoever.

In its Resolution dated September 25, 2002, the trial court noted that at that stage of the proceedings, petitioner had not shown that Circular No. 2001-51 and Resolution No. 2001-113, which were already being implemented by Napocor, were in contravention of any law. What the RTC perceived to be clear was that a rollback of the salaries of all the Napocor employees, while the merits of the case were yet to be heard, would result in grave and irreparable damage to them. Hence, the trial court concluded, its issuance of the injunctive writ was justified. [30]

We disagree.

From the foregoing conflicting claims of the parties, it is obvious that the right claimed by respondent as its basis for asking for injunctive relief is far from clear. The validity of the circulars and board resolution has been put into serious question; more so, in the light of Napocor Board Resolution No. 2002-81, which was issued precisely to rectify the previously issued resolution and circular. While respondent's claimed right is not required to be conclusively established at this stage, it is nevertheless necessary to show -- at least tentatively -- that it exists and is not vitiated by any substantial challenge or contradiction as that raised by petitioner. [31] In our view, respondent has failed to comply with this requirement.

The enforcement of the suspension order and Resolution No. 2002-81 would effect the rollback of the salaries of Napocor employees receiving more than the two-step increments. True, their enforcement would be prejudicial to respondent members' interest, but merely showing this fact is not sufficient. It must also be established that the

party applying for the writ has a clear legal right that must be protected. Thus, a finding that the applicant for preliminary injunction may suffer damage not capable of pecuniary estimation does not suffice to support an injunction, when it appears that the right to be protected is unclear or is seriously disputed.[32]

No Vested Right to the Suspended Step Increments

Respondent contends that its members have already acquired a vested right to the suspended step increments, which they have been enjoying after the issuance of Circular No. 2001-51 in October 2001. It alleges that the suspension or revision of the circular (by virtue of Board Resolution No. 2002-81 issued on July 24, 2002, and confirmed on August 14, 2002) constitutes a salary diminution, which is clearly prejudicial to them.

A vested right is one that is absolute, complete and unconditional; to its exercise, no obstacle exists; and it is immediate and perfect in itself and not dependent upon any contingency.[33] To be vested, a right must have become a title -- legal or equitable -- to the present or future enjoyment of property.[34]

As has been held, there is no vested right to salary increases.[35] There must be a lawful decree or order supporting an employee's claim.

In the present case, because the validity of their implementation was fundamentally assailed, the step increments enjoyed by the Napocor employees could not have ripened into vested rights. In brief, it is seriously contended that, because they were granted without the required DBM approval, no vested rights to the step increments could have been acquired.

The terms and conditions of employment of government employees are governed by law.[36] It is the legislature and -- when properly given delegated power -- the administrative heads of government that fix the terms and conditions of employment through statutes or administrative circulars, rules, and regulations.[37]

While government instrumentalities and agencies are trying their best to alleviate the financial difficulties of their employees, they can do so only within the limits of budgetary appropriations. The exercise of management prerogative by government corporations are limited by the provisions of the laws applicable to them.[38] Subject to state regulation in particular is a public utility like Napocor, its income, and the amount of money available for its operating expenses including labor costs.

Moreover, Article 100 of the Labor Code on "non-diminution of benefits" does not contemplate the continuous grant of unauthorized or irregular compensation. The application of the principle presupposes that a company practice, policy and tradition favorable to the employees has been clearly established; and that the payments made by the company pursuant to it have ripened into benefits enjoyed by them.[39]

In *Baybay Water District v. COA*,[40] a substantially similar contention was resolved in this wise:

"x x x. The erroneous application and enforcement of the law by public officers does not estop the Government from making a subsequent correction of such errors. More specifically, where there is an express provision of law prohibiting the grant of certain benefits, the law must be enforced even if it prejudices certain parties due to an error committed by public officials in granting the benefit. x x x Practice, without more, no matter how long continued, cannot give rise to any vested right if it is contrary to law." [41]

An Injunctive Writ, a Virtual Disposition of the Main Case

While the grant of a writ of preliminary injunction generally rests on the sound discretion of the court taking cognizance of the case, extreme caution must be observed in the exercise of that discretion.[42] A court should, as

much as possible, avoid issuing the writ, which would effectively dispose of the main case without trial and/or due process.[43]

In the present case, it is evident that the only ground relied upon for injunctive relief is the alleged nullity of petitioner's May 8, 2002 Memorandum and Auditor Cabibihan's June 5, 2002 suspension order. Respondent contends that petitioner and Cabibihan exceeded the limitations of their authority.

By issuing a writ premised on that sole justification, the trial court in effect sustained respondent's claim that petitioner and Auditor Cabibihan had exceeded their authority in ordering the suspension of the implementation of the step increments; and that the suspension was patently invalid or, at the very least, that the memorandum and circular were of doubtful validity. Thus, the lower court prejudged the main case and reversed the rule on the burden of proof, because it assumed to be true the very proposition that respondent-complainant in the RTC was duty-bound to prove in the first place.

Furthermore, the RTC's action ran counter to the well-settled rule that acts of public officers are presumed to be regular and valid, unless sufficiently shown to be otherwise.[44] A court may issue a writ or preliminary injunction only when the respondent has made out a case of invalidity or irregularity. That case must be strong enough to overcome, in the mind of the judge, the presumption of validity; and it must show a clear legal right to the remedy sought.[45]

Petitioner has gone to great lengths in arguing her position on the merits of the prohibition case, but this is neither the time nor the opportunity for that kind of debate. The validity of respondent's Complaint is a matter that must be addressed initially by the trial court; that issue cannot be resolved at this time by this Court.

In fine, we hold that respondent has not justified the issuance of the Writ of Preliminary Injunction by proving its clear and positive legal right to the step increments. The Court of Appeals thus erred in affirming the Resolutions of the trial court dated September 25, 2002 and October 29, 2002.

WHEREFORE, the Petition is GRANTED, and the assailed Decision and Resolution REVERSED AND SET ASIDE. The Regional Trial Court of Quezon City is directed to proceed speedily with the trial on the merits of Civil Case No. Q-02-47615 and to decide it with all deliberate dispatch. No costs.

SO ORDERED.

Panganiban, C. J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, Garcia, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 3-25.

[2] Annex "A" of Petition, id. at 27-36. Penned by Justice Eubulo G. Verzola, (Division chair) and concurred in by Justices Remedios Salazar- Fernando and Edgardo F. Sundiam (members).

[3] Annex "B" of Petition, id. at 38-39.

[4] Issued by Judge Percival Mandap Lopez.

[5] CA Decision, pp. 3-6; id. at 29-32.

[6] Id. at 6; id. at 32.

[7] RTC Decision, p. 21; rollo, p. 59.

[8] This case was deemed submitted for decision on January 24, 2005, upon this Court's receipt of respondent's unconvincing 10-page Memorandum, signed by Atty. Lito G. Go of Moreno Gironella Go & Delos Santos-Quiaoit. Petitioner's Memorandum, signed by Attys. Mary Grace R. Chua and Rowena Candice M. Ruiz, was received by this Court on December 6, 2004.

[9] Petitioner's Memorandum, pp. 7-8; rollo, pp. 330-331.

[10] Longino v. General, 451 SCRA 423, February 16, 2005.

[11] Montes v. Court of Appeals, GR No. 143797, May 4, 2006; Transfield Philippines, Inc. v. Luzon Hydro Corporation, 443 SCRA 307, November 22, 2004; David v. Navarro, 422 SCRA 499, February 11, 2004.

[12] See Information Technology Foundation of the Phil. v. Comelec, 419 SCRA 141, January 13, 2004.

[13] The City Government of Quezon City v. Bayan Telecommunications, Inc., GR No. 162015, March 6, 2006; Joson III v. Court of Appeals, GR No. 160652, February 13, 2006; Chavez v. Public Estates Authority, 433 Phil. 506, July 9, 2002; Cuevas v. Bacal, December 6, 2000; Ty v. Trampe, 321 Phil. 81, December 1, 1995.

[14] Hongkong & Shanghai Banking Corp., Ltd. v. G.G. Sportswear Manufacturing Corp., GR No. 146526, May 5, 2006 citing Province of Zamboanga del Norte v. Court of Appeals, 396 Phil. 709, October 11, 2000; Paat v. Court of Appeals, 334 Phil. 146, January 10, 1997. The principle of exhaustion of administrative remedy admits of exceptions, in which judicial action may be validly resorted to immediately (1) when there is a violation of due process; (2) when the issue involved is purely a legal question; (3) when the administrative action is patently illegal amounting to lack or excess of jurisdiction; (4) when there is estoppel on the part of the administrative agency concerned; (5) when there is irreparable injury; (6) when the respondent is a department secretary whose acts as an alter ego of the President bears the implied and assumed approval of the latter; (7) when to require exhaustion of administrative remedies would be unreasonable; (8) when it would amount to a nullification of a claim; (9) when the subject matter is a private land in land case proceedings; (10) when the rule does not provide a plain, speedy and adequate remedy; and (11) when there are circumstances indicating the urgency of judicial intervention, and unreasonable delay would greatly prejudice the complainant; (12) when no administrative review is provided by law; (13) when the rule of qualified political agency applies; and (14) when the issue of non-exhaustion of administrative remedies has been rendered moot.

[15] Spouses Lim v. Court of Appeals, GR No. 134617, February 13, 2006; Tayag v. Lacson, 426 SCRA 282, March 25, 2004; G & S Transport Corporation v. Court of Appeals, 432 Phil. 7, May 28, 2002.

[16] Carlos A. Gothong Lines, Inc. v. Court of Appeals, 433 SCRA 348, July 1, 2004; Ortigas & Company Limited Partnership v. Court of Appeals, 162 SCRA 165, June 16, 1988.

[17] Valley Trading Co., Inc. v. CFI of Isabela, Br. II, 171 SCRA 501, March 31, 1989.

[18] Napocor Employees Consolidated Union (NECU) v. The National Power Corporation, GR No. 157492, March 10, 2006, per Garcia, J.

[19] Almeida v. CA, 448 SCRA 681, January 17, 2005; Indiana Aerospace University v. CHED, 356 SCRA 367, April 4, 2001; Vinzons-Chato v. Natividad, 314 Phil. 824, June 2, 1995.

[20] MIAA v. Rivera Village Lessee Homeowners Association, GR No. 143870, September 30, 2005; Medina v. Greenfield Development Corporation, 443 SCRA 150, November 19, 2004; Medina v. City Sheriff, Manila, 342 Phil. 90, July 24, 1997; Sps. Arcega v. CA, 341 Phil. 166, July 7, 1997.

[21] Almeida v. CA, *supra*; Manila International Airport Authority v. CA, 445 Phil. 369, February 14, 2003.

- [22] Ramos v. CA, 95 SCRA 359, January 22, 1980 (citing Locsin v. Climaco, 26 SCRA 816, January 31, 1969).
- [23] 196 SCRA 665, May 6, 1991; reiterated in Manila International Airport Authority v. CA, supra note 20.
- [24] Id. at 672-673, per Cruz, J.
- [25] Petition for Prohibition, p. 6; rollo, p. 74.
- [26] Id. at 5; id. at 73.
- [27] Republic Act No. 6395.
- [28] "Section 16. Repeal of Special Laws and Regulations. - All laws, decrees, executive orders, corporate charters, and other issuance or parts thereof, that exempt agencies from the coverage of the System, or that authorize and fix position classification, salaries, pay rates or allowances of specified positions, or group of officials and employees or of agencies, which are inconsistent with the System, including the proviso under Section 2, and Section 16 of Presidential Decree No. 985 are hereby repealed."
- [29] The Salary Standardization Law, which took effect on July 1, 1989.
- [30] See Resolution dated September 25, 2002; rollo, pp. 58-60.
- [31] Los Baños Rural Bank, Inc. v. Africa, 433 Phil. 930, July 11, 2002; Developers Group of Companies, Inc. v. Court of Appeals, 219 SCRA 715, March 8, 1993.
- [32] Manila International Airport Authority v. CA, supra note 20.
- [33] Philippine Ports Authority v. COA, 214 SCRA 653, October 16, 1992.
- [34] United Paracale Mining Company Inc. v. Dela Rosa, 221 SCRA 108, April 7, 1993.
- [35] Equitable Banking Corporation (now known as Equitable-PCI Bank) v. Sadac, GR No. 164772, June 8, 2006.
- [36] Baybay Water District v. COA, 425 Phil. 326, January 23, 2002.
- [37] Alliance of Government Workers (AGW) v. The Hon. Minister of Labor and Employment, 209 Phil. 1, August 3, 1983.
- [38] Baybay Water District v. COA, supra note 36.
- [39] Manila Electric Company v. Quisumbing, 302 SCRA 173, 201, January 27, 1999.
- [40] Supra note 36.
- [41] Id. at 341-342, per Mendoza, J.
- [42] Manila International Airport Authority v. CA, supra note 20.
- [43] F. Regalado, Remedial Law Compendium, vol. I, 639 (7th revised ed., 1999); Bayanihan Music Phil., Inc. v. BMG Records (Pilipinas), GR No. 166337, March 7, 2005; Ortigas & Company Limited Partnership v. Court of Appeals, supra note 16.
- [44] RULES OF COURT, RULE 131, Sec. 3(l).
- [45] See Valley Trading Co., Inc. v. CFI of ISabela, Br. II, 171 SCRA 501, March 31, 1989. In this case, petitioner filed a Complaint seeking a declaration of the supposed nullity of a tax ordinance, which imposed a graduated tax on retailers, wholesalers and distributors. It also prayed for the issuance of a writ of preliminary

prohibitory injunction to enjoin the collection of that tax. The trial court denied the prayer for a preliminary writ, and the Supreme Court affirmed the denial. The Court noted that the only ground relied upon for injunction relief was the alleged patent nullity of the ordinance. The Court ruled that if the desired writ was issued on the basis of that sole justification by petitioner, the issuance of that writ would be a virtual acceptance of his claim that the imposition is patently invalid or of doubtful validity.

In *Searth Commodities Corp. v. CA*, 207 SCRA 622, March 31, 1992, petitioners had only one main argument for the invalidity of the foreclosure sale. They sought to justify the issuance of the injunction by alleging that, at the time of foreclosure, the remaining balance of the loan incurred by Petitioner Searth was only P17,858; the three residential properties foreclosed by DBP to satisfy this balance were, however, valued at P950,000. The Court held that, were the lower court to issue the desired writ to enjoin the sale of the properties on the basis of the aforementioned justification by petitioners, the issuance of the writ would be a virtual acceptance of their claim that the foreclosure sale was null and void. There would in effect be a prejudgment of the main case for annulment of the REM and the foreclosure sale.

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