OVERSEAS WORKERS WELFARE ADMINISTRATION, REPRESENTED BY ADMINISTRATOR MARIANITO D. ROQUE, PETITIONER, VS. ATTY. CESAR L. CHAVEZ, OPHELIA N. ALMENARIO, ELVIRA ADOR, REYNALDO TAYA...

G.R. No. 169802. June 08, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

The Case

Petitioner Overseas Workers Welfare Administration (OWWA), comes to this Court via the instant Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the 22 September 2005 Decision[1] of the Court of Appeals in CA-G.R. SP No. 87702, which affirmed the Order[2] dated 30 September 2004, of the Regional Trial Court (RTC), Pasay City, Branch 117, in Civil Case No. 04-0415-CFM. The RTC granted the issuance of a writ of preliminary injunction restraining OWWA from implementing its new organizational structure.

Factual Antecedents

OWWA is a government agency tasked primarily to protect the interest and promote the welfare of overseas Filipino workers (OFWs).[3] OWWA traces its beginnings to 1 May 1977, when the Welfare and Training Fund for Overseas Workers in the Department of Labor and Employment (DOLE) was created by virtue of Letter of Instructions No. 537, with the main objective, inter alia, of providing social and welfare services to OFW, including insurance coverage, social work, legal and placement assistance, cultural and remittances services, and the like. On 1 May 1980, Presidential Decree No. 1694 was signed into law, formalizing the operations of a comprehensive Welfare Fund (Welfund), as authorized and created under Letter of Instructions No. 537. Presidential Decree No. 1694 further authorized that contributions to the Welfare and Training Fund collected pursuant to Letter of Instructions No. 537 be transferred to the Welfund. On 16 January 1981, Presidential Decree No. 1809 was promulgated, amending certain provisions of Presidential Decree No. 1694.[4] Subsequently, Executive Order No. 126 was passed which reorganized the Ministry of Labor and Employment. Executive Order No. 126 also renamed the Welfare Fund as the OWWA.

From the records, it is undisputed that on 9 January 2004, as there was yet no formal OWWA structure duly approved by the Department of Budget and Management (DBM) and the Civil Service Commission (CSC), the OWWA Board of Trustees passed Resolution No. 001,[5] Series of 2004, bearing the title "Approving the Structure of the Overseas Workers Welfare Administration," and depicting the organizational structure and staffing pattern of the OWWA, as approved by Patricia A. Sto. Tomas (Sto. Tomas), then Chair of the OWWA Board of Trustees and then Secretary of the DOLE. According to Resolution No. 001, the structuring of the OWWA will stabilize the internal organization and promote careerism among the employees. It will also ensure a

more efficient and effective delivery of programs and services to member-OFWs. Resolution No. 001 resolved, thus:

> RESOLVED therefore, to approve as it is hereby approved, the OWWA Structure which is hereto attached and made an integral part of this Resolution, comprising mainly of the approved organizational chart, functional descriptions and staffing pattern, subject to the following:
>
> - There will be no displacement of existing regular employees;
>
> - There will be no temporary appointments; and
>
> - There will be no hiring of casuals, contractuals or consultants in the new structure.
>
> RESOLVED further, that the OWWA Structure be immediately submitted for the appropriate actions of competent authorities, particularly the DBM and CSC.[6]

On 24 March 2004, DBM Secretary Emilia T. Boncodin (Boncodin), approved the organizational structure and staffing pattern of the OWWA.[7] In her approval thereof, she stated that the total funding requirements for the revised organizational structure shall be P107,546,379 for four hundred (400) positions. Moreover, DBM Secretary Boncodin underscored that the funding shall come solely from the OWWA funds and that no government funds shall be released for the implementation of the changes made.

On 31 May 2004, OWWA Administrator Virgilio R. Angelo (Angelo), issued Advisory No. 01,[8] advising the officials and employees of the OWWA that the DBM had recently approved OWWA's organizational chart, functional statements, and the staffing pattern. Advisory No. 01 also announced that a Placement Committee will be created to evaluate and recommend placement of all regular/permanent incumbents of OWWA in the new organizational chart and staffing pattern. All employees were asked to indicate in writing their interest or preference in any of the approved plantilla item, especially for promotion to the Human Resources Management Division, not later than 11 June 2004. Further, Advisory No. 01 emphasized that the OWWA Board of Trustees, thru its Resolution No. 001, Series of 2004, had declared the policy that there will be no displacement of existing regular/permanent employees. Qualified casual and contractual personnel may apply for any vacant item only after all regular/permanent employees of OWWA had been placed.

Subsequently, on 3 June 2004, DOLE Secretary Sto. Tomas issued Administrative Order No. 171, Series of 2004, creating a Placement Committee to evaluate qualifications of employees; and to recommend their appropriate placement in the new organizational chart, functional statements and staffing pattern of the OWWA. Administrative Order No. 171 was partially amended by Administrative Order No. 171-A, issued by DOLE Acting Secretary Manuel G. Imson (Imson), authorizing the Placement Committee to recommend to the OWWA Administrator their evaluations, which shall thereafter be endorsed to the DOLE Secretary for consideration.[9]

The Placement Committee was directed to comply with the pertinent CESB/CSC/DBM rules and regulations on its recommended placement of all personnel of OWWA based on the following parameters, to wit[10]:

> - There would be no diminution nor displacement of permanent/regular employees of OWWA.
>
> - Qualified casuals and contractual personnel may likewise be considered in the staffing pattern only after ensuring that the regular(s)/permanent employees of OWWA have already been placed.
>
> - Decentralization of functions to bring OWWA services closer to the public shall be adopted. Thus, priority in some promotions shall be given to those who opt to be assigned in the regional offices, aside from performance.
>
> - Deployment in the overseas posts shall be made on rotation basis from both the frontline and the

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administrative staff, based on performance.

- Regular/permanent incumbents interested for promotion should indicate their interest in writing to the Placement Committee: Attn: The Chairperson.

- Those who may opt to retire should submit to the HRMD, their application for retirement, copy furnished the Budget Division for budget allocation purposes.

The Placement Committee should complete its task not later than June 30, 2004.

On 8 June 2004, OWWA Administrator Angelo issued Advisory No. 02, inviting OWWA officials and employees to an orientation on the new structure, functions and staffing pattern of the OWWA. Moreover, Advisory No. 02 required the holding of elections for the First and Second Level Representatives who will elect from among themselves the regular official representatives and alternates in the Placement Committee deliberations. On 11 June 2004, Advisory No. 03 was issued, announcing the conduct of an election for representatives and alternates representing the employees in the first [Salary Grades (SG) 1-9] and second level (SG 10-24), pursuant to Administrative Order No. 171, dated 3 June 2004, as amended by Administrative Order No. 171-A.

On 18 June 2004, DOLE Acting Secretary Imson issued Administrative Order No. 186, Series of 2004,[11] prescribing the guidelines on the placement of personnel in the new staffing pattern of the OWWA.

On 29 June 2004, herein respondents filed with the RTC, a Complaint for Annulment of the Organizational Structure of the OWWA, as approved by OWWA Board Resolution No. 001, Series of 2004, with Prayer for the Issuance of a Writ of Preliminary Injunction[12] against herein petitioner OWWA and its Board of Trustees.[13] The case was docketed as Civil Case No. 04-0415-CFM.

In their Complaint, respondents alleged that the OWWA has around 24 consultants, 29 casual employees, 76 contractual workers, and 356 officers and employees, which number does not include the 85 contractual employees in the Office of the Secretariat of the OWWA Medicare.[14] Respondents posited that the approved Organizational Structure and Staffing Pattern of the OWWA increases the number of regular plantilla positions from 356 to 400; however, the increase of 42 positions will not absorb the aforementioned consultants and casual and contractual workers. They further averred that the plantilla positions in the Central Office will be reduced from 250 to 140, while the regional offices will have an increase of 164 positions. According to the respondents, the resulting decrease in the number of employees in the Central Office will result in the constructive dismissal of at least 110 employees. Meanwhile, the deployment of the regular central office personnel to the regional offices will displace the said employees, as well as their families.

Respondents challenged the validity of the new organizational structure of the OWWA. In fine, they contended that the same is null and void; hence, its implementation should be prohibited.

Respondents prayed for the issuance of a writ of preliminary injunction to restrain petitioners from: 1) implementing its organizational structure as approved by the OWWA Board of Trustees in its Resolution dated 9 January 2004; and 2) advertising and proceeding with the recruitment and placement of new employees under the new organizational structure.[15]

Further, respondents prayed that after trial on the merits, OWWA's organizational structure be declared as unconstitutional and contrary to law; and the OWWA Board of Trustees be declared as having acted contrary to the Constitution and existing laws, and with grave abuse of discretion in approving Resolution No. 001, dated 9 January 2004.[16]The Ruling of the RTC

On 30 September 2004, the RTC rendered an Order[17] granting respondents' prayer for a writ of preliminary

injunction upon the filing of a bond in the sum of P100,000.00. In the grant thereof, the RTC reasoned that any move to reorganize the structure of the OWWA requires an amendatory law. It deemed Resolution No. 001 was not merely a "formalization of the organizational structure and staffing pattern of the OWWA," but a disruption of the existing organization which disturbs and displaces a number of regular employees, including consultants and casual and contractual employees.

The RTC ratiocinated in this wise:

> x x x All told, what is being done now at OWWA is a reorganization of its structure as originally conceived under P.D. No. 1694 [Organization and Administration of the Welfare for Overseas Workers] and P.D. No. 1809 [Amending Certain Provisions of Presidential Decree 1694, Creating the "Welfare Fund for Overseas Workers"]. In the (sic) light of Section 11 of R.A. No. 6656 which provides that "the executive branch of the government shall implement reorganization schemes within a specified period of time authorized by law", this court doubts whether a reorganization of OWWA can be effected without an enabling law.
>
> Further, defendants do not dispute the fact that while the mechanics of the reorganization is still being forged, the DOLE already processed applications and eventually hired employees not from among the existing employees of the OWWA. This appears to be in contravention of Section 4 of R.A. No. 6656 which provides:
>
> "Sec. 4. Officers and employees holding permanent appointments shall be given preference for appointment to the new positions in the approved staffing pattern comparable to their former position or in case there are not enough comparable positions, to positions next lower in rank.
>
> "No new employees shall be taken in until all permanent officers and employees have been appointed, including temporary and casual employees who possess the necessary qualification requirements, among which is the appropriate civil service eligibility for permanent appointment to positions in the approved staffing pattern, in case there are still positions to be filled, unless such positions are policy-determining, primarily confidential or highly technical in nature."
>
> Furthermore, defendant's (sic) do not dispute the fact that the Placement Committee was hastily constituted, that its members were not educated of their task of job placement, that there was no real to goodness (sic) personnel evaluation and, finally, the Chairman of the Committee was simply hand-picked by the DOLE Secretary contrary to the explicit injunction of Section 8 of the Implementing Rules of R.A .No. 6656 that "the members shall elect their Chairman."[18]

The RTC also cited the protection afforded by the Constitution to workers, specifically, officers or employees of the Civil Service in ruling that the existing organization of the OWWA need not be disturbed in any way and no single worker will be removed or displaced. Thus:

> This court entertains no doubt that as workers, plaintiffs enjoy a right that is protected both by the Constitution and statutes. Thus, "(n)o officer or employee of the civil service shall be removed or suspended except for cause provided by law. "(Sec. 2, par. 3, Art. IX, Constitution). "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws." (Sec. 1, Art. III; ibid.). A person's job is his property. In many cases, as in the Philippine setting, one's job also means one's life and the lives of those who depended on him. Hence, it is a policy of the State to "free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all." (Sec. 8, Art. II, ibid.) Any act that, contrary to law, tends to deprive a worker of his work, violates his rights.[19]

Finally, the RTC defended its jurisdiction over the controversy despite petitioner's protestations that jurisdiction over respondents' complaint is lodged in the administrative agencies tasked to implement the new OWWA structure. It ruled that the doctrine of primary jurisdiction is applicable only where the administrative agency

exercises its quasi-judicial or administrative function; but, where what is challenged is the constitutionality of a rule or regulation issued by the administrative agency in the performance of its quasi-legislative functions, regular courts have jurisdiction over the matter.[20]

Therefore, the RTC, in its Order, dated 30 September 2004, granted respondents' prayer for a writ of preliminary injunction, to wit:

> WHEREFORE, upon plaintiff's (sic) filing of a bond in the sum of P100,000.00, let a writ of preliminary injunction issue in: 1) restraining the defendants from implementing the new organizational structure of OWWA approved by the Board of Trustees on January 9, 2004 and 2) restraining the defendants from advertising and proceeding with the recruitment and placement of new employees under the new organizational structure.[21]

Without filing a Motion for Reconsideration, petitioner, thru the Office of the Solicitor General (OSG),[22] filed with the Court of Appeals, a Petition for Certiorari and Prohibition with Prayer for Issuance of a Temporary Restraining Order and Writ of Preliminary Injunction under Rule 65 of the Rules of Court, assailing the RTC Order of 30 September 2004.[23]

The Ruling of the Appellate Court

On 22 September 2005, the Court of Appeals rendered the assailed Decision, which dismissed the petition. It affirmed the court a quo's findings that respondents possess a clear and legal right to the immediate issuance of the writ. It resolved that it was proper for the RTC to restrain, for the meantime, the implementation of OWWA's reorganization to prevent injury until after the main case is heard and decided.[24] It found respondents' allegations sufficient to prove the existence of a right that should be protected by a writ of preliminary injunction. Thus:

> Petitioner averred, too, that majority of the casuals, contractuals and consultants have been employed for more than ten (10) years, if not twenty (20) years, and were not regularized simply due to lack of regular positions in the plantilla or the freezing of recruitment thereto.
>
> To be sure, private respondents have convincingly adduced evidence of specific acts to substantiate their claim of impending injury and not merely allegations of facts and conclusions of law, but factual evidence of a clear and unmistakable right of being displaced or dismissed by the planned reorganization. These allegations are substantial enough to prove the right in esse. At best, the anxiety of being dismissed or displaced is not premature, speculative and purely anticipatory, but based on real fear which shows a threatened or direct injury[,] it appearing that the reorganization of the OWWA is already slowly being put into motion.
>
> Apropos, having successfully established a direct and personal injury as a consequence of the new reorganization[al] structure, it was only proper for the court a quo to grant the writ of preliminary injunction to restrain, for the meantime, the implementation of the reorganization to prevent injury on respondents until after the main case is heard and decided. Truly, as correctly observed by the trial court, private respondents enjoy a right that is protected both by the Constitution and statutes. A person's job is not only his property but his very life. The constitutional protection of the right to life is not just a protection of the right to be alive or to the security of one's limb against physical harm. The right to life is also a right to a good life (Bernas, The Constitution of the Republic of the Philippines, A Commentary, Volume I, First Edition, 1997) which includes the right to earn a living or the right to a livelihood. A fortiori, the requisites for preliminary injunction to issue have adequately been established: the existence of a clear and unmistakable right, and the acts violative of said right.
>
> While the evidence to be submitted at the hearing on the motion for preliminary injunction need not be conclusive and complete, We find that private respondents have adequately shown that they are in clear danger

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of being irreparably injured unless the status quo is observed, in the meantime x x x.[25]

The appellate court was likewise of the opinion that the substantial issues raised before the court a quo anent the validity of the organizational structure of the OWWA; the alleged lack of authority of the DBM to approve the same including the alleged violation by the OWWA of relevant statutes; the lack of consultation prior to the reorganization; and the supposed illegal constitution of the Placement Committee, are matters which the RTC is behooved to resolve. In finding no error on the part of the RTC, the Court of Appeals said that without an injunctive relief, any decision that may be rendered in the suit would already be ineffective, moot and academic.[26]

Aggrieved, petitioner through the OSG,[27] filed the instant petition.

In the instant petition, petitioner prays that the appealed Decision of the Court of Appeals be reversed and set aside, and that Civil Case No. 04-0415-CFM before the RTC be dismissed for lack of merit.[28]

The Issue

The issue to be resolved is, whether the court a quo gravely abused its discretion in issuing the writ of preliminary injunction. Stated otherwise, the issue is whether the Court of Appeals erred in affirming the RTC in its grant of the assailed writ of preliminary injunction. Clearly, we are thus confined to the matter of the propriety of the issuance of the writ of preliminary injunction by the trial court, and not to the merits of the case which is still pending before the latter.

The Case for the Petitioner

First, in support of their petition, petitioner posits that the OWWA has already implemented the new organizational structure as the advertisement, recruitment, and placement of OWWA employees have been accomplished; and in the process, none of the respondents have been dismissed. Moreover, the act sought to be prevented has long been consummated; hence, the remedy of injunction should no longer be entertained.

Second, petitioner adduces the proposition that the reorganization of the OWWA does not require an amendatory law contrary to the holding of the court a quo. The OSG maintains that there was no previous OWWA structure in the first place; and neither did Presidential Decree No. 1694[29] nor Presidential Decree No. 1809,[30] provide for an organizational structure for the OWWA.

Third, petitioner disputes the existence of the rights of respondents to be protected by the preliminary injunctive writ sought on the ground that the latter did not shown any legal right which needs the protection thereof, nor did they show that any such right was violated to warrant the issuance of a preliminary injunction. Petitioner asserts that respondents did not claim that they are the consultants or casual or contractual workers who would allegedly be displaced; and neither did respondents show that there is only one right or cause of action pertaining to all of them. Neither was there a violation of their rights because respondents have all been given appointments in the new OWWA organizational structure.[31]

Finally, on respondents' allegation that the reorganization of the OWWA will reassign permanent employees to its regional offices, and consequently, displace them and their families, petitioner counters that an employee may be reassigned from one organizational unit to another in the same agency, provided that such reassignment shall not involve a reduction in rank, status or salary.[32]

The Case for the Respondents

Respondents argue that the petitioner railroaded and raced against time to implement the new OWWA

organizational structure. They claim that in the process, petitioner exhibited manifest bad faith and injustice. What existed was a hasty reorganization and restructuring of the OWWA without adequate study and consultation, which was thereafter submitted and immediately approved by the Board of Trustees. They insist that the creation of an organizational structure of the OWWA would require a presidential fiat or a legislative enactment pursuant to Republic Act No. 6656.[33]

Further, respondents maintain that their right in esse was established during the proceedings for the issuance of the writ of preliminary injunction, as their complaint sufficiently showed the rights and interests of the parties. They alleged that at no stage in the proceedings did petitioner question such rights. In fact, petitioner made a waiver in open court to the effect that it was not presenting testimonial evidence. According to the respondents, such an act was constitutive of an admission by petitioner of the existence of a right in esse in their favor.

The Ruling of the Court

Section 1, Rule 58 of the Rules of Court, defines a preliminary injunction as an order granted at any stage of an action prior to the judgment or final order requiring a party or a court, an agency or a person to refrain from a particular act or acts.[34] Section 3, Rule 58 of the Rules of Court, enumerates the grounds for the issuance of a writ of preliminary injunction as follows:

> Sec. 3. Grounds for issuance of preliminary injunction. &ndahs; 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.

A preliminary injunction is granted at any stage of an action or proceeding prior to the judgment or final order.[35] It persists until it is dissolved or until the termination of the action without the court issuing a final injunction.[36] To be entitled to an injunctive writ, petitioner must show, inter alia, the existence of a clear and unmistakable right and an urgent and paramount necessity for the writ to prevent serious damage.[37] A writ of preliminary injunction is generally based solely on initial and incomplete evidence.[38] The evidence submitted during the hearing on an application for a writ of preliminary injunction is not conclusive or complete for only a "sampling" is needed to give the trial court an idea of the justification for the preliminary injunction pending the decision of the case on the merits.[39] In fact, the evidence required to justify the issuance of a writ of preliminary injunction in the hearing thereon need not be conclusive or complete.[40] It must also be stressed that it does not necessarily proceed that when a writ of preliminary injunction is issued, a final injunction will follow.[41]

Moreover, the grant or denial of a preliminary injunction is discretionary on the part of the trial court.[42] Thus, the rule is, the matter of the issuance of a writ of preliminary injunction is addressed to the sound discretion of the trial court, unless the court commits grave abuse of discretion.[43] In Toyota Motor Phils. Corporation Workers" Association (TMPCWA) v. Court of Appeals,[44] this Court pronounced that grave abuse of discretion in the issuance of writs of preliminary injunction implies a capricious and whimsical exercise of judgment that is equivalent to lack of jurisdiction; or the exercise of power in an arbitrary or despotic manner by reason of passion, prejudice or personal aversion 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. It is clear that the assessment and evaluation of evidence in the issuance of the writ of preliminary injunction involve findings of facts ordinarily left to the trial court for its conclusive determination.[45] The duty of the court taking cognizance of a prayer for a writ of preliminary injunction is to determine whether the requisites necessary for the grant of an injunction are present in the case before it.[46] However, as earlier stated, if the court commits grave abuse of its discretion in the issuance of the writ of preliminary injunction, such that the act amounts to excess or lack of jurisdiction, the same may be nullified through a writ of certiorari or prohibition.

More significantly, a preliminary injunction is merely a provisional remedy, an adjunct to the main case subject to the latter's outcome, the sole objective of which is to preserve the status quo until the trial court hears fully the merits of the case.[47] The status quo should be that existing at the time of the filing of the case.[48] The status quo usually preserved by a preliminary injunction is the last actual, peaceable and uncontested status which preceded the actual controversy.[49] The status quo ante litem is, ineluctably, the state of affairs which is existing at the time of the filing of the case. Indubitably, the trial court must not make use of its injunctive power to alter such status.[50]

We hold that the RTC, in granting the assailed writ of preliminary injunction, committed grave abuse of discretion amounting to lack of jurisdiction.

In the case at bar, the RTC did not maintain the status quo when it issued the writ of preliminary injunction. Rather, it effectively restored the situation prior to the status quo, in effect, disposing the issue of the main case without trial on the merits. What was preserved by the RTC was the state of affairs before the issuance of Resolution No. 001, which approved the structure of the OWWA, and the subsequent administrative orders pursuant to its passing. The RTC forgot that what is imperative in preliminary injunction cases is that the writ can not be effectuated to establish new relations between the parties. Hence, we find herein an application of the lessons that can be learned from Rualo v. Pitargue.[51] In Rualo, this Court determined, among others, the propriety of the writ of preliminary injunction which was issued restraining the Bureau of Internal Revenue from further implementing its reorganization, and enforcing the orders[52] pursuant thereto. This Court, in lifting the therein assailed writ, underscored the legal proscription which states that courts should avoid issuing a writ of preliminary injunction which would in effect dispose of the main case without trial.[53] According to the Court in Rualo, the trial court, in issuing the writ of preliminary injunction, did not maintain the status quo but restored the situation before the status quo, that is, the situation before the issuance of the Revenue Travel Assignment Orders.[54] The Court further declared that what existed was an acceptance of therein respondents' premise of the illegality of the reorganization, and a prejudgment on the constitutionality of the assailed issuances.[55] As in Rualo, we find herein a similar case where the RTC admitted hook, line and sinker the mere allegations of respondents that the reorganization as instituted was unlawful without the benefit of a full trial on the merits. It also did not maintain the status quo but restored the landscape before the implementation of OWWA's reorganization. In thus issuing the writ of preliminary injunction, the substantive issues of the main case were resolved by the trial court. What was done by the RTC was quite simply a disposition of the case without trial. This is an error in law and an exercise of grave abuse of discretion. Furthermore, we find that the RTC similarly prejudged the validity of the issuances released by the OWWA Board of Trustees, as well as the other governmental bodies (i.e., DBM, DOLE), which approved the organizational structure and staffing pattern of the OWWA. In Rualo, this Court asserted the presumption of regularity of the therein assailed government issuances. In this case, we accentuate the same presumption.

Ineluctably, this Court is compelled to rule against the propriety of the grant of the assailed ancillary writ of preliminary injunction on the material ground that the records do not support respondents' entitlement thereto.

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We do not find attendant the requisites for the issuance of a preliminary injunctive writ. This Court is not convinced that respondents were able to show a clear and unmistakable legal right to warrant their entitlement to the writ. A mere blanket allegation that they are all officers and employees of the OWWA without a showing of how they stand to be directly injured by the implementation of its questioned organizational structure does not suffice to prove a right in esse. As was aptly raised by the petitioner, respondents did not show that they were dismissed due to the challenged reorganization. There was no showing that they are the employees who are in grave danger of being displaced. Respondents were similarly wanting in proving that they are the consultants and contractual and casual employees, who will allegedly suffer by reason of the re-organization. This Court is consistently adamant in demanding that a clear and positive right especially calling for judicial protection must be established.[56] As has been reiterated, injunction is not a remedy to protect or enforce contingent, abstract, or future rights; it will not issue to protect a right not in esse and which may never arise, or to restrain an action which did not give rise to a cause of action.[57] In contrast, the rights of OWWA are accorded to it by law. The importance of the reorganization within the body and the benefits that will accrue thereto were accentuated by the Board of Trustees in its Resolution No. 001. The aforesaid resolution declared, inter alia, that the structuring of the OWWA will stabilize the internal organization and promote careerism among the employees, as well as ensure a more efficient and effective delivery of programs and services to member-OFWs'.[58] However, we go further to opine that even the question of whether the OWWA requires an amendatory law for its reorganization is one that should be best threshed out in the disposition of the merits of the case. Indeed, the question as to the validity of the OWWA reorganization remains the subject in the main case pending before the trial court. Its annulment is outside the realm of the instant Petition.

Assuming arguendo that respondents stand to be in danger of being transferred due to the reorganization, under the law, any employee who questions the validity of his transfer should appeal to the CSC.[59] Even then, administrative remedies must be exhausted before resort to the regular courts can be had.

Finally, as aptly pointed out by the OSG, the acts sought to be prohibited had been accomplished. Injunction will not lie where the acts sought to be enjoined have already been accomplished or consummated.[60] The wheels of OWWA's reorganization started to run upon the approval by the Board of Trustees of its Resolution No. 001 entitled, "Approving the Structure of the Overseas Workers Welfare Administration." Subsequently, a series of issuances which approved the organizational structure and staffing pattern of the agency was issued by the DBM, the OWWA Administrator, and by the DOLE. Resolution No. 001 has already been implemented. Case law has it that a writ of preliminary injunction will not issue if the act sought to be enjoined is a fait accompli.

A writ of preliminary injunction being an extraordinary event,[61] one deemed as a strong arm of equity or a transcendent remedy,[62] it must be granted only in the face of actual and existing substantial rights. In the absence of the same, and where facts are shown to be wanting in bringing the matter within the conditions for its issuance, the ancillary writ must be struck down for having been rendered in grave abuse of discretion.

WHEREFORE, the Petition is GRANTED. The Decision of the Court of Appeals, dated 22 September 2005 in CA-G.R. SP No. 87702, is REVERSED and SET ASIDE. The Writ of Preliminary Injunction issued by the Regional Trial Court pursuant to its Order, dated 30 September 2004, in Civil Case No. 04-0415-CFM is LIFTED and SET ASIDE.

SO ORDERED.

Ynares-Santiago, (Chairperson), and Austria-Martinez, JJ., concur.
Nachura, J., No part . Filed pleadings as Sol Gen.

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* Associate Justice Nachura, then Solicitor General, filed the Memorandum in behalf of petitioner OWWA.

[1] Penned by Associate Justice Conrado M. Vasquez, Jr. with Associate Justices Juan Q. Enriquez, Jr. and Japar B. Dimaampao, concurring. Rollo, pp. 39-46.

[2] Penned by Judge Henrick F. Gingoyon (now deceased); id. at 131-134.

[3] Id. at p. 10.

[4] Section 2 of Presidential Decree No. 1694 is hereby amended to read as follows:

"Section 2. Fund Source. All contributions to the Welfare and Training Fund collected pursuant to Letter of Instructions No. 537 issued on May 1, 1977 shall be transferred to the Welfund and deposited for the account of the Welfund in a government depository bank. Fees and other charges to be imposed, subject to the approval of the Minister of Labor and Employment, by the Overseas Employment Development Board, the Bureau of Employment Services, and the National Seamen Board shall accrue to the Welfund."

Section 3 of the same Decree is hereby amended to read as follows:

"Sec. 3. Administration. The Welfund shall be administered by a Board of Trustees through a Secretariat. The Board of Trustees shall consist of the Minister of Labor and Employment as Chairman, the Minister of Finance, the Minister of Budget, one Deputy Minister of Labor and Employment, the Executive Director of the Overseas Employment Development Board, the Executive Director of the National Seamen Board, the Director of the Bureau of Employment Services, the Administrator of the Welfund as Vice-Chairman, and one representative each from the management and labor sectors.

"The Administrator and the representatives of the management and labor sectors shall be appointed by the President, upon recommendation of the Minister of Labor and Employment.

"The Administrator, who shall be the chief executive officer of the Welfund, shall have the qualifications, rank and compensation of a Bureau Director. He shall be assisted by a Deputy Administrator with the rank and compensation of a deputy director and who shall be appointed by the Board of Trustees upon the recommendation of the Chairman.

"The Welfund secretariat shall be attached to the Office of the Minister of Labor and Employment, whose personnel shall be appointed by the Chairman, upon recommendation of the Administrator. The compensation of the personnel and the operating expenses of the secretariat shall be charged to the Welfund."

Sec. 5 is also hereby amended to read as follows:

"Sec. 5. Fund Management. Transactions in the Welfund shall be subject to such rules and regulations as may be formulated by its Board of Trustees. The Board of Trustees shall fix the yearly appropriation of the Secretariat."

[5] Rollo, p. 47.

[6] Id.

[7] Id. at 48.

[8] Id. at 86.

[9] Id. at 89.

[10] Administrative Circular No. 171, Series of 2004; id. at 88.

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[11] Id. at 93-97.

[12] CA rollo, pp. 34-64.

[13] At the time of the filing of the Complaint, the board was composed of Hon. Patricia A. Sto. Tomas, Virgilio R. Angelo, Manuel G. Imson, Jose S. Brillantes, Rosalinda D. Baldoz, Eduardo P. Opida, Mina C. Figueroa, Victorina F. Balais, Caroline R. Rogge, Gregorio S. Oca, Corazon P. Carsola, and Virginia J. Pasalo; id. at 34.

[14] Id. at 38.

[15] Id. at 62.

[16] Id. at 62-63.

[17] Rollo, pp. 131-134.

[18] CA rollo, pp. 29-30.

[19] Id. at 29.

[20] Id. at 30.

[21] Id. at 30-31.

[22] Filed by Solicitor General Alfredo L. Benipayo, Assistant Solicitor General Renan E.Ramos, and Solicitor Ronaldo B. Martin.

[23] Rollo, pp. 135-160.

[24] Id. at 45.

[25] Id. at 44-45.

[26] Id. at 45.

[27] The instant Petition for Certiorari was signed by Solicitor General Alfredo L. Benipayo, Assistant Solicitor General Renan E. Ramos and Associate Solicitor Christian Ron C. Esponilla.

[28] Id. at 34.

[29] Entitled, "ORGANIZATION AND ADMINISTRATION OF THE WELFARE FUND FOR OVERSEAS WORKERS."

[30]Entitled, "AMENDING CERTAIN PROVISIONS OF PRESIDENTIAL DECREE NO. 1694, CREATING THE "WELFARE FUND FOR OVERSEAS WORKERS."

[31] Rollo, p. 29.

[32] Id. at 32.

[33] Entitled, An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization.

[34] Levi Strauss & Co. v. Clinton Aparelle, Inc., G.R. No. 138900, 20 September 2005, 470 SCRA 236, 251.

[35] Bacolod City Water District v. Labayen, G.R. No. 157494, 10 December 2004, 446 SCRA 110, 122.

[36] Id.

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[37] Ong Ching Kian Chuan v. Hon. Court of Appeals and Lorenzo Tan, 415 Phil. 365, 374-375 (2001).

[38] Urbanes, Jr. v. Court of Appeals, G.R. No. 117964, 28 March 2001, 355 SCRA 537, 545.

[39] Id.

[40] Los Baños Rural Bank, Inc. v. Africa, 433 Phil. 930, 941 (2002).

[41] Id.

[42] Philippine Ports Authority v. Pier 8 Arrastre & Stevedoring Services, Inc., G.R. Nos. 147861 & 155252, 18 November 2005, 475 SCRA 426, 441.

[43] Toyota Motor Phils. Corporation Workers' Association (TMPCWA) v. Court of Appeals, 458 Phil. 661, 681 (2003).

[44] Supra note 40.

[45] Bustamante v. Hon. Court of Appeals, 430 Phil. 797, 805 (2002).

[46] Civil Service Commission v. Court of Appeals, 475 Phil. 276, 287 (2005).

[47] Rualo v. Pitargue, G.R. No. 140284, 21 January 2005, 449 SCRA 121, 141-142.

[48] Id.

[49] Republic Telecommunications Holdings, Inc. v. Court of Appeals, 362 Phil. 38, 42 (1999).

[50] Cortez-Estrada v. Heirs of Domingo Samut, G.R. No. 154407, 14 February 2005, 451 SCRA 275, 289.

[51] Supra note 47.

[52] The assailed orders in Rualo were: Executive Order No. 430, entitled "Further Streamlining the Bureau of Internal Revenue in line with its Computerized Integrated Tax System"; Revenue Memorandum Order No. 57-97, entitled "Policies and Guidelines on Streamlining the Bureau of Internal Revenue under Executive Order No. 430"; Revenue Travel Assignment Orders No. 28-97 and 1-98 to 35-98.

[53] Supra note 47 at 142.

[54] Id. at 143.

[55] Id.

[56] Almeida v. Court of Appeals, G.R. No. 159124, 17 January 2005, 448 SCRA 681, 694.

[57] Id.

[58] Rollo, p. 47.

[59] Supra note 52.

[60] Laxina, Sr. v. Office of the Ombudsman, G.R. No. 153155, 30 September 2005, 471 SCRA 542, 558.

[61] Tayag v. Lacson, G.R. No. 134971, 25 March 2004, 426 SCRA 282, 298.

[62] Id. at 298-299.

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