

**D.C. CRYSTAL, INC, PETITIONER, VS. HON. ALFREDO C. LAYA,
JUDGE, CFI, CEBU, BR. IX, AND CORAZON Y. LUA, RESPONDENTS.**

G.R. No. 53597. February 28, 1989

Ponente: NARVASA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-53597/>

NARVASA, J.:

The law says that "(n)o preliminary injunction shall be granted without notice to the defendant unless it shall appear from facts shown by affidavits or by the verified complaint that great or irreparable injury would result to the applicant before the matter can be heard on notice **." [1] It was avowedly on the authority of this provision that the respondent Judge issued the Order dated February 26, 1980 now impugned in the proceedings at bar. The Order contained the following determination:[2]

WHEREFORE, upon authority of Sections 1 and 5, Rule 5, of the Rules of Court, upon plaintiffs filing of a bond in the amount of Ten Thousand (P10,000.00) Pesos, and pending hearing on whether a writ of preliminary injunction should be issued, the defendants Desamparado C. Crystal and D. C. Crystal, Inc., their employees, hired hands, Philippine Constabulary escorts, agents and representatives, are all hereby ordered to immediately cease and desist from further disturbing or molesting the plaintiff Corazon Y. Lua in her normal business operations, and from preventing her hauling trucks from loading or hauling aggregates from her area of operations, nor from obstructing or in anyway preventing plaintiff from restoring or rehabilitating the two roads or passageways, formerly utilized by her in her usual operations of business, until further orders from this court, or from a higher court.

Set the hearing of plaintiff's motion for issuance of a writ of preliminary injunction on March 4, 1980, at 8:30 o'clock in the morning.[3]

The restraining order was issued[4] Civil Case No. AV-433, commenced[5] by complaint of the aforementioned Corazon Y. Lua against Desamparado C. Crystal and D.C. Crystal, Inc.

Lua's verified complaint[6] averred that she is lawfully engaged in the business of supplying crushed aggregates and mixed sand and gravel quarried from Camp 2, Talisay, Cebu; that the quarry lies within public land in relation to which she had obtained corresponding permits from the Bureau of Mines; that the business requires the use of a rock crusher machine, and to have a right-of-way from the national highway to the site where her machine was installed, she had leased the property of Paulino Abatayo and constructed a road along said right-of-way; that her quarry is located at a distance of approximately 200 meters from her rock crusher machine; that on February 25, 1980, while her trucks were engaged in loading and hauling crushed aggregates at the quarry, the defendants, claiming that her (Lua's) area of operations was within their own concession area, caused a bulldozer to dig up and destroy the road built by Lua on her right-of-way, and another road also constructed by her from the rock quarry to the Mananga River (along public land under administration of the Bureau of Forest Development and as regards which she had also obtained a permit for utilization and passage); that as a result of defendants' bulldozing, Lua's employees were denied access to her operations area, and her machines -- 3 payloaders, 8 dump

trucks, her crusher machine -- and trucks belonging to Geo-Transport, Inc. (then hauling crushed rock purchased from Lua), were isolated and rendered immobile; that with the assistance of PC soldiers, the defendants had since effectively prevented Lua from retrieving her trucks and from conducting normal business operations in the area, thereby causing her continuing damages; that the cost of restoring the roads to their previous condition was approximately P20,000.00, the rate of rental per day of one dump truck was P900.00 and of one payload, P1,500.00, and the rate of production of her rock crusher machine was 400 cubic meters per day, with a value of P25.00 per cubic meter, or a total of P10,000.00 per day; and that great and irreparable injury would be suffered by her (Lua) before the matter of issuing an injunction could be heard on notice. These sworn averments were no doubt taken into account by respondent Judge and prompted him to issue the temporary restraining order, pending hearing on the application for preliminary injunction which he scheduled, as aforesaid, twelve (12) days from date of the order.

On being served with summons, the defendants promptly filed two (2) motions. One sought dismissal of the action on the ground that venue had been improperly laid and Lua had no cause of action.[7] The other prayed for dissolution of the restraining order on the asserted theory that Lua had not shown a right to the relief demanded and that in truth it was she who had invaded defendants' rights.[8] Lua submitted a formal opposition to the motions.

The Court thereafter held a hearing and received the parties' oral arguments. The parties then agreed to meet three (3) days hence at the area in question, at Camp 2, Talisay, at which time and place the hearing would be continued and an ocular inspection conducted in the presence of two representatives of the Bureau of Mines. This was done.[9] On the basis of the proofs and arguments thus received, the respondent Judge denied both motions of the defendants (to dismiss the case and lift the restraining order), in an Order dated March 24, 1980.[10]

In the instant special civil action commenced in this Court on April 14, 1980, D.C. Crystal, Inc. prays for the issuance of the extraordinary writs of certiorari and prohibition to annul and perpetually inhibit enforcement of the aforementioned Orders of the respondent Judge, dated February 26, 1980 (granting a temporary restraining order) and March 24, 1980 (granting a preliminary injunction). On April 18, 1980, the Court restrained (1) enforcement of said orders of February 26 and March 24, 1980, and (2) further proceedings in Civil Case No. AV-433, except the reception of evidence on the damages allegedly suffered by petitioner Crystal, Inc. resulting from the restraining order of February 26, 1980.[11]

Petitioner contends that –

- 1) since it holds two placer mining lease contracts from the Government, no Court has jurisdiction to issue a restraining order curtailing its mining activities, in accordance with P.D. No. 605 and P.D. No. 1281;
- 2) since the controversy involved the right to the possession and enjoyment of an area in Talisay, Cebu, within the territorial jurisdiction of the Courts of First Instance holding sessions in Cebu City, the venue of the action is Cebu City and not Mandaue City, pursuant to Administrative Order No. 328 dated August 7, 1969; and
- 3) Corazon Lua's complaint states no cause of action since it is founded on a lease contract not in her name but in that of a separate entity, the Kimwa Development Corporation; moreover, Lua is Chinese and hence has no right to exploit the country's natural resources.
- 4) In validation of its theory of the Trial Court's lack of authority to issue either a restraining order or preliminary injunction against its mining and related activities, the petitioner relies on Section 1 of Presidential Decree No. 605 and related provisions of Presidential Decree No. 1281. Section 1 of PD 605 states:

SECTION 1. No court of the Philippines shall have jurisdiction to issue any restraining order or preliminary

injunction in any case involving or growing out of the issuance, approval or disapproval, revocation or suspension of, or any action whatsoever by the proper administrative official or body on concessions, licenses, permits, patents, or public grants of any kind in connection with the disposition, exploitation, utilization, exploration and/or development of the natural resources of the Philippines.

PD 1281, on the other hand, pertinently provides that –

(SEC. 6) The Bureau of Mines shall have jurisdictional supervision and control over all holders of mining claims or applicants for and/or grantees of mining licenses, permits, leases and/or operators thereof, including mining service contracts and service contractors insofar as their mining activities are concerned; and in the exercise of such authority, it shall have the power to enlist the aid and support of all law enforcement agencies of the Government, civil and/or military.

(and)

(SEC. 7) In addition to its regulatory and adjudicative functions over companies, partnerships or persons engaged in mining exploration, development and exploitation, the Bureau of Mines shall have original and exclusive jurisdiction to hear and decide cases involving:

(a) a mining property subject of different agreements entered into by the claim holder thereof with several mining operators;

(b) complaints from claim owners that the mining property subject of an operating agreement has not been placed into actual operations within the period stipulated therein; and

(c) cancellation and/or enforcement of mining contracts due to the refusal of the claim owner/operator to abide by the terms and conditions thereof.

Going by the facts alleged in respondent Lua's complaint in the Court a quo -- which are as a rule the only basis for determining the court's competence to take cognizance of the nature of the action,[12] and which were hypothetically admitted by the defendants when they moved for dismissal of the complaint on the ground of its failure to state a cause of action[13] -- petitioner Crystal's theory of the Trial Court's lack of jurisdiction must be rejected. Lua's complaint is founded on the theory that the defendants (1) had unlawfully intruded into the area in which by authority of the Bureau of Mines and the Bureau of Forestry, she was carrying on her quarrying business, (2) had destroyed the road she had built thereon, (3) had thoroughly immobilized her operations and effectively denied her possession of her machines, and (4) had thereby caused her and continue to cause her damages. The complaint does not put at issue the legitimacy of the defendants' claim of being holders of placer mining lease contracts; what it asserts is that defendants had taken the law into their own hands and had violated plaintiffs rights. This admitted factual situation is clearly not among those over which jurisdiction is exclusively vested in the Bureau of Mines.

Not only is the Trial Court's assumption of jurisdiction of the action therefore entirely justified by the averments of the complaint, but its subsequent issuance of the preliminary injunction in question is also authorized by those same averments as well as by the facts found to have been established at the hearing and ocular inspection relative to the plaintiffs application for said provisional remedy, viz:

** Firstly, plaintiff's plant site distinctly do(es) not appear to be part of the Mananga riverbed which the Court observes to be very wide and excessive enough to dovetail with the thin elongated portrait reflected in defendants' blueprint plan, Exh. "8-ocular;" as being the true extent of the area under mining lease to the defendants. Moreover the site has a very much higher elevation compared to the riverbed. Secondly, judging from

the green vegetation in the immediate vicinity of the plant site, particularly the probable age of the coconut trees growing nearby, the area could not have been still part of the Mananga riverbed at the time of approval of defendants' blueprint plan in 1972. Thirdly, even Engr. Raul Galeon of the Bureau of Mines admit(s) the fact that the Mananga Riverbed is about 100 meters from the national highway to the north, thereby substantiating the claim of plaintiff that beyond and adjoining the titled property of Paulino Abatayo is another area of land over which the latter has laid claim of ownership by right of accretion. It appears that Mr. Abatayo's claim finds support in Art. 457 of the Civil Code. And lastly, the Court cannot believe that an area which has already been planted to coconuts, bananas and other permanent food crops and claimed to be of private ownership still could be covered by a sand and gravel concession issued by the government.

As regards the preliminary injunction, it is germane to stress that what is restrained by the injunction issued by the Trial Court are not defendants' mining activities but their invasion of plaintiffs' operations area and their infringement of her rights in respect thereof. The Court a quo cannot thus be regarded as having acted without or in excess of its jurisdiction or gravely abused its discretion in rendering the Orders now impugned before this Court.

2. Neither may petitioner Crystal's theory of improper venue be sustained. The action in the Court below is a personal, not a real one.[14] It seeks recovery of damages caused to the plaintiff by the defendants' use of intimidation and other illegal means to prevent the former from conducting licit business activities and operations, to destroy her property and deprive her of use and enjoyment of machinery. Venue thereof was therefore properly laid at the place of actual residence of the plaintiff, at the latter's option.[15] Besides, the insistence of trying the case in Cebu City instead of Mandaue City, when only a few kilometers lie between the cities, is, as the bard says, simply so much ado about nothing, simply so much quibbling over something of no consequence whatever. It is an insistence on a literal observance of a technical rule of procedural convenience, affecting no conceivable matter of substance.

3. Nor may any merit be accorded to petitioner Crystal's argument that Lua's complaint in the Court a quo failed to state a cause of action, considering the fact, extraneous to said complaint, that (1) the lease contract relied upon by Lua for her business activities was not in her name but in another's, and (2) she was, in any case, disqualified to engage in such activities on account of her being Chinese. It is axiomatic that a defendant moving to dismiss a complaint on this ground is regarded as having admitted all the averments thereof, at least hypothetically, the test of the sufficiency of the facts found in a petition, as constituting a cause of action, being whether or not, admitting the facts alleged, the court could render a valid judgment upon the same in accordance with the prayer thereof.[16] In determining the sufficiency of the statements in the complaint as setting forth a cause of action,[17] only those statements in the complaint, to repeat, may properly be considered, and it is error for the Court to take cognizance of external facts, or hold a preliminary hearing to determine their existence.[18] The respondent Court therefore acted correctly in denying the motion to dismiss and refusing to take account of facts asserted by the defendants which were not only not found in the complaint but contradictory of their hypothetical admission of the contents thereof. Those facts are proper for averment as affirmative defenses in the answer.

5. It is not amiss to draw attention to the failure of the petitioner to fulfill a procedural pre-requisite. It failed to file a motion for reconsideration of the order of preliminary injunction of the respondent Court, prior to applying for a writ of certiorari or prohibition for its annulment and perpetual inhibition on the ground of lack of jurisdiction of the nature of the suit, a ground which it had not previously brought to the Court's attention, being raised for the first time only in the proceedings at bar. This is a fatal omission.[19]

6. It but remains to deal with petitioner Crystal's motion to declare respondent Lua in contempt for alleged forum shopping.⁵ It is alleged that after instituting Civil Case No. AV-433 in Branch XV, she later filed an identical case

with Branch I of the same Court, identifying herself as "Kimwa Construction and Development Corporation" and obtaining another injunction from the latter. The record however discloses that the two actions are quite distinct from each other. Apart from the actions having been initiated by obviously different plaintiffs, the second suit relates to facts subsequent to and different from those subject of the first action. The motion for contempt must therefore be denied for lack of merit.

WHEREFORE, the petition is DISMISSED, and the petitioner's motion for contempt DENIED, for lack of merit. The temporary restraining order of April 18, 1980 is SET ASIDE. Costs against petitioner.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Sec. 5, Rule 58, Rules of Court.

[2] Italics supplied

[3] Rollo, pp. 34-35.

[4] N.B. By virtue of B.P. Blg. 224, eff. April 16, 1982, a restraining order of this sort has a lifetime of only twenty (20) days from its issuance

[5] On February 26, 1980

[6] Rollo, pp. 26 et seq

[7] Id., p. 86

[8] Id., p 43.

[9] Id., p. 62

[10] Id., pp. 79-88

[11] Id., p. 96

[12] *Salao v. Crisostomo*, 138 SCRA 17; *La Trinidad v. CFI of Baguio*, 123 SCRA 81; *National Mines and Allied Workers' Union v. Valero*, 132 SCRA 579, citing *Gonsalo Puyat & Sons, Inc. v. Labayo*, 62 SCRA 488; *Filipro, Inc. v. CIR*, 46 SCRA 621; *Progressive Labor Association v. Atlas Consolidated Mining and Development Corporation*, 33 SCRA 349

[13] *Bacolod-Murcia Milling Co., Inc. v. First Farmers Milling Co., Inc.*, 103 SCRA 436; *Domaoal v. Reyes*, 131 SCRA 512

[14] Sec. 2 (a), Rule 4, Rules of Court

[15] Sec. 2 (b), Rule 4, Rules of Court; cf, *Dizon v. Bayona*, 98 Phil. 942; *Sarabia v. Secretary of Agriculture, etc.*, 104 Phil. 151; *Suarez v. Reyes*, 7 SCRA 461; *Uichangco v. Secretary of Agriculture, etc.*, 7 SCRA 547; *Extensive Enterprises Corp. v. Sabro & Co., Inc.*, 17 SCRA 41

[16] *Paminsan v. Costales*, 28 Phil. 487, 489; *De Jesus, et al. v. Belarmino, et al.*, 95 Phil. 365; *Worldwide Insurance & Surety Co., Inc. v. Manuel*, 98 Phil. 47; *Galeon v. Galeon*, L-30380, Feb. 28, 1973; *Suyom v. Collantes*, L-40337, Feb. 27, 1976

[17] The requisites of a cause of action are (1) a legal right of the plaintiff, (2) a correlative obligation of the defendant, and (3) an act or omission of the defendant in violation of said legal right (*Ma-ao Sugar Central v.*

Barrios, 79 Phil. 666; Remitero v. Montinola, 16 SCRA 251, 256; Republic Planters Bank v. I.A.C., 131 SCRA 631

[18] SEE, e.g., the numerous cases collated in Moran, Comments on the Rules of Court, 1979 ed., Vol. 1, p. 490; see, too, Heirs of Juliana Clavano v. Genato, G.R. No. L-45837, Oct. 28, 1977; cf, Aranzanso v. Martinez, L-3468, April 25, 1951

[19] Moran, op, cit., 1980 ed., Vol. 8, p. 181, with voluminous citations; Vda. de Sayman v. C.A., 121 SCRA 650; Guevarra v. C.A., 124 SCRA 297; Gonzales v. I.A.C. 131 SCRA 468

[20] Motion dtd. Dec.9, 1980, Rollo, 127; comment thereon dtd. Jan. 20, 1981, Rollo, p. 160; reply to comment dtd. Feb. 12, 1981, Rollo, p.167

ABOUT BATAS.ORG

Study smarter at BATAS.org

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

The complete Philippine law library - free for everyone.

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

Audio case-brief lectures.

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

Bar review built on the science of memory.

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

The full law-school curriculum.

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

Mock exams that tell you where you stand.

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

A study planner that keeps you on pace.

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

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

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

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

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