

## THIRD DIVISION

[ G.R. No. 214073, October 04, 2017 ]

**BICOL MEDICAL CENTER, REPRESENTED BY DR. EFREN SJ. NERVA, AND THE DEPARTMENT OF HEALTH, REPRESENTED BY HEALTH SECRETARY ENRIQUE T. ONA, PETITIONERS, V. NOE B. BOTOR, CELJUN F. YAP, ISMAEL A. ALBAO, AUGUSTO S. QUILON, EDGAR F. ESPLANA II, AND JOSEFINA F. ESPLANA, RESPONDENTS.**

### D E C I S I O N

**LEONEN, J.:**

*Prima facie* evidence is evidence that is not rebutted or contradicted, making it good and sufficient on its face to establish a fact constituting a party's claim or defense.  
[1]

This resolves the Petition for Review<sup>[2]</sup> filed by Bicol Medical Center and the Department of Health, assailing the February 28, 2014 Decision<sup>[3]</sup> and August 26, 2014 Resolution<sup>[4]</sup> of the Court of Appeals in CA-G.R. SP No. 129806.

Camarines Sur Provincial Hospital (Provincial Hospital) was established in 1933 as a 25-bed provincial hospital located along Mabini Street, now Peñafrancia Avenue, Naga City. The Camarines Sur Provincial Government eventually subsidized the operations of a private hospital located at Concepcion Pequeña, Naga City and transferred the Provincial Hospital there.<sup>[5]</sup>

Road Lot No. 3, which stretched from Panganiban Road to J. Miranda Avenue, is a service road which leads to the Provincial Hospital.<sup>[6]</sup>

The Provincial Hospital was eventually converted to the Bicol Regional Training and Teaching Hospital (Training and Teaching Hospital).<sup>[7]</sup>

Sometime in 1982, the Camarines Sur Provincial Government donated about five (5) hectares of land to the Ministry of Health, now the Department of Health,<sup>[8]</sup> as evidenced by Transfer Certificate of Title (TCT) No. 13693.<sup>[9]</sup> The Training and Teaching Hospital and Road Lot No. 3 were included in this donation.<sup>[10]</sup>

The Training and Teaching Hospital became the Bicol Medical Center (BMC) in 1995.  
[11]

Sometime in 2009, BMC constructed a steel gate along J. Miranda Avenue to control the flow of vehicle and pedestrian traffic entering the hospital premises.<sup>[12]</sup>

On March 21, 2012, Dr. Efren SJ. Nerva (Dr. Nerva), BMC Chief I, issued Hospital Memorandum No. 0310,<sup>[13]</sup> which ordered the rerouting of traffic inside the BMC

Compound. Salient portions of this Memorandum read:

To: **All Officials and  
Employees**  
This Center

Subject: Traffic Re-routing inside  
the BMC Compound

In line with the Traffic Re-routing of the Center, the exit gate at the MCC Quarters shall be closed and the OPD Exit Gate shall be used for the exit of pedestrians and motor vehicles effective **April 1, 2012**.

For information and dissemination purposes.<sup>[14]</sup>

This rerouting scheme closed the steel gate for vehicles and pedestrians along J. Miranda Avenue, relocating it from the eastern side of the hospital to the western side effective April 1, 2012.<sup>[15]</sup> The relocation of this gate was implemented for security reasons and to make way for "[m]assive development within the Complex."<sup>[16]</sup>

The gate closure drew a lot of criticism from the community, and on May 19, 2012, Atty. Noe Botor (Atty. Botor) wrote to Naga City Mayor John Bongat (Mayor Bongat), asking for the reopening or dismantling of the gate for being a public nuisance.<sup>[17]</sup>

The Sangguniang Panlungsod of Naga City passed a resolution authorizing Mayor Bongat to dismantle the gate.<sup>[18]</sup> However, instead of dismantling it, Mayor Bongat filed a Verified Petition with Prayer for a Writ of Preliminary Injunction against BMC. The case was docketed as Civil Case No. 2012-0073 and raffled to Branch 24, Regional Trial Court, Naga City.<sup>[19]</sup>

Atty. Botor, Celjun F. Yap, Ismael A. Albao, Augusto S. Quilon, Edgar F. Esplana II, and Josefina F. Esplana (Intervenors) were allowed to intervene and submit their complaint-in-intervention.<sup>[20]</sup>

A few months later, ground-breaking ceremonies for the construction of the Cancer Center Building<sup>[21]</sup> were conducted, with construction intended to begin in January 2013. When fully completed, the Cancer Center Building would take over "about three-fourths ( $\frac{3}{4}$ ) of the width of Road Lot No. 3."<sup>[22]</sup>

On December 21, 2012, the Regional Trial Court denied Naga City's application for injunctive relief, ruling that Naga City failed to prove a clear and unmistakable right to the writ prayed for.<sup>[23]</sup>

On February 22, 2013, the Regional Trial Court denied the motion for reconsideration filed by the Intervenors.<sup>[24]</sup>

Only the Intervenors filed a petition for certiorari before the Court of Appeals.<sup>[25]</sup>

On February 28, 2014, the Court of Appeals granted the petition and emphasized that only a *prima facie* showing of an applicant's right to the writ is required in an application for writ of injunctive relief.<sup>[26]</sup>

The Court of Appeals opined that the Intervenor's were able to prove the public character of Road Lot No. 3, considering that "the general public had been using [it] since time immemorial," with even Dr. Nerva admitting that he passed through it when he was young. The Court of Appeals also gave due weight to the 1970s Revised Assessor's Tax Mapping Control Roll and its Identification Map, which support the Intervenor's assertion of the public nature of Road Lot No. 3.<sup>[27]</sup>

The Court of Appeals concluded that Naga City and the Intervenor's were able to present *prima facie* evidence of their right to the writ. However, the Court of Appeals pointed out that whether or not the Revised Assessor's Tax Mapping Control Roll should prevail over BMC's title over the property is a factual matter that should be threshed out in the trial court.<sup>[28]</sup> The dispositive portion of the Court of Appeals Decision read:

**WHEREFORE**, premises considered, the instant petition is hereby **GRANTED**. The court *a quo* is hereby **DIRECTED** to issue a writ of mandatory preliminary injunction in the case *a quo*.

**SO ORDERED.**<sup>[29]</sup> (Emphasis in the original)

On August 26, 2014, the Court of Appeals<sup>[30]</sup> denied the motions for reconsideration filed by BMC and the Department of Health. However, the Court of Appeals emphasized that the injunction was not directed against the construction of the Cancer Center Building but against the relocation of the service road and gate closure.<sup>[31]</sup>

On September 29, 2014, petitioners BMC and the Department of Health filed this Petition for Review on Certiorari<sup>[32]</sup> before this Court. Petitioners claim that although Road Lot No. 3 has been open to vehicles and pedestrians as BMC's service road, it was never intended for use by the general public and was not owned by Naga City, as evidenced by the certification issued by the Office of the City Engineer of Naga City.<sup>[33]</sup>

Petitioners assert that they have set up a gate on Road Lot No. 3, which is closed at night, on weekends, and during holidays for security reasons and for the welfare of patients and hospital staff.<sup>[34]</sup>

Petitioners maintain that Dr. Nerva's closure of the road and relocation of the gate was in preparation for the construction of the Cancer Center Building.<sup>[35]</sup> Thus, the preliminary mandatory injunction issued by the Court of Appeals had the effect of halting construction of a government project, a violation of Presidential Decree No. 1818<sup>[36]</sup> and this Court's Administrative Circular No. 11-2000, which reiterated the prohibition on the issuance of injunctions in cases involving government infrastructure projects.<sup>[37]</sup>

Petitioners claim that the P51,999,475.26 contract for the Cancer Center Building has been awarded to OCM Steel Corporation, the winning contractor, and the Notice to Proceed dated February 3, 2014 has been issued, signalling the mobilization stage of the construction of the Cancer Center Building.<sup>[38]</sup>

Petitioners emphasize that the Court of Appeals erred in holding that the injunction over the relocation of the service road and closure of the gate did not violate

Presidential Decree No. 1818 because the Cancer Center Building, a government project, will be constructed right where the gate stands.<sup>[39]</sup>

Petitioners point out that the Cancer Center Building will be constructed along Road Lot No. 3; hence, there is a need to close this road due to the excavation and construction, which will make it dangerous for pedestrians and vehicles alike to pass through.<sup>[40]</sup>

Petitioners likewise underscore that the intervenors, now respondents, failed to support their claim that Road Lot No. 3 was a public road<sup>[41]</sup> or that they had a clear right to the injunctive relief prayed for.<sup>[42]</sup> Furthermore, respondents also allegedly "failed to prove that the invasion of the[ir] right sought to be protected [was] material and substantial" and that there was an urgent necessity for the issuance of the writ to prevent serious damage.<sup>[43]</sup>

Finally, petitioners applied for a temporary restraining order and/or writ of preliminary injunction to prevent the reopening of the gate since doing so would affect the construction of the Cancer Center Building.<sup>[44]</sup>

On October 8, 2014, this Court issued two (2) Resolutions. The first Resolution<sup>[45]</sup> granted petitioners' motion for extension to file their petition. The second Resolution<sup>[46]</sup> issued a temporary restraining order enjoining the implementation of the Court of Appeals February 28, 2014 Decision and August 26, 2014 Resolution, which directed the Regional Trial Court to issue a writ of mandatory preliminary injunction on the closure of Road Lot No. 3. The second Resolution also required respondents to comment on the petition.<sup>[47]</sup>

On January 13, 2015, respondents filed their Comment on the Petition,<sup>[48]</sup> where they disputed petitioners' claim that Road Lot No. 3 was always a component or service road of BMC. Respondents contend that Road Lot No. 3 existed as a public road long before any hospital was constructed on it and assert that it remains to be a public road to this day.<sup>[49]</sup>

Respondents also dispute petitioners' claim that the road closure was for the construction of the Cancer Center Building since Dr. Nerva's memorandum was for no other purpose than to reroute traffic within the hospital complex.<sup>[50]</sup>

Respondents likewise point out that when they filed their intervention before the Regional Trial Court and their petition before the Court of Appeals, there were still no plans to construct the Cancer Center Building. Furthermore, BMC allegedly failed to support its claim that there were indeed plans to build the Cancer Center Building.<sup>[51]</sup> Nonetheless, respondents explain that they are not against its construction but are merely asking that it not be illegally built on a public road.<sup>[52]</sup>

Finally, respondents ask that this Court lift its issued temporary restraining order against the assailed Court of Appeals Decision and Resolution.<sup>[53]</sup>

In its Resolution<sup>[54]</sup> dated February 25, 2015, this Court noted respondents' comment and denied their prayer to lift the temporary restraining order. It likewise directed petitioners to file their reply to the comment.

In their Reply,<sup>[55]</sup> petitioners reiterate their stand that Road Lot No. 3 is a private property.<sup>[56]</sup> Petitioners also rebut respondents' assertion that they only belatedly brought up the construction of the Cancer Center Building because this project was nonexistent.<sup>[57]</sup> Petitioners attached photos<sup>[58]</sup> to prove that the construction of the Cancer Center Building was in progress.<sup>[59]</sup>

The single issue to be resolved by this Court is whether or not the Court of Appeals erred in directing the Regional Trial Court to issue a writ of preliminary injunction on the closure of Road Lot No. 3.

The Petition is meritorious.

## I

*Department of Public Works and Highways v. City Advertising Ventures Corp.*<sup>[60]</sup> defined a writ of preliminary injunction as follows:

[A] writ of preliminary injunction is an ancillary and interlocutory order issued as a result of an impartial determination of the context of both parties. It entails a procedure for the judge to assess whether the reliefs prayed for by the complainant will be rendered moot simply as a result of the parties' having to go through the full requirements of a case being fully heard on its merits. Although a trial court judge is given a latitude of discretion, he or she cannot grant a writ of injunction if there is no clear legal right materially and substantially breached from a *prima facie* evaluation of the evidence of the complainant. Even if this is present, the trial court must satisfy itself that the injury to be suffered is irreparable.<sup>[61]</sup>

A writ of preliminary injunction is issued to:

[P]reserve the *status quo ante*, upon the applicant's showing of two important requisite conditions, namely: (1) the right to be protected exists *prima facie*, and (2) the acts sought to be enjoined are violative of that right. It must be proven that the violation sought to be prevented would cause an irreparable injustice.<sup>[62]</sup>

Rule 58, Section 3 of the Rules of Court provides the instances when a writ of preliminary injunction may be issued:

Section 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