

FIRST DIVISION

[G.R. No. 160399, December 09, 2015]

THE CITY OF ILOILO, REPRESENTED BY HON. MAYOR JERRY P. TREÑAS, PETITIONER, VS. HON. JUDGE RENE B. HONRADO, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 29, ILOILO CITY, AND JPV MOTOR VEHICLE EMISSION TESTING & CAR CARE CENTER, CO., REPRESENTED BY JIM P. VELEZ, RESPONDENTS.

DECISION

BERSAMIN, J.:

The essential office of preliminary injunction is to preserve the rights of the parties before the final adjudication of the issues. Where injunction is the main relief sought in the action, therefore, the trial court should desist from granting the plaintiff's application for temporary restraining order or writ of preliminary injunction if such grant would tend to prejudice the case on the merits. The preliminary injunction should not determine the merits of the case, or decide controverted facts, but should still look to a future final hearing.

The Case

This case is a direct resort to the Court by way of *certiorari* to challenge the orders issued on June 24, 2003^[1] and August 15, 2003^[2] in Civil Case No. 03-27648 by the Regional Trial Court (RTC), Branch 29, in Iloilo City on the ground that the RTC thereby committed grave abuse of its discretion amounting to lack or excess of jurisdiction.

Antecedents

The Department of Transportation and Communications (DOTC) issued Department Order No. 2002-31 (with the subject "AUTHORIZATION OF PRIVATE EMISSION TESTING CENTERS").^[3] Item No. 2 of Department Order No. 2002-31 stated:

2. To ensure that "cut throat" or "ruinous" competition, that may result to the degradation of level of service of the project is avoided, authorization of PETC should strictly be rationalized taking into consideration the vehicle population expected to be serviced in the area. As basis, one (1) PETC lane shall be authorized for every 15,000 registered vehicles in an LTO Registering District.

JPV Motor Vehicle Emission Testing and Car Care Center (JPV), a partnership authorized to operate a PETC in Iloilo City, was granted a capacity of four lanes that could cater to 15,000 motor vehicles per lane for the total capacity of 60,000 motor vehicles. At the time JPV filed the complaint in Civil Case No. 03-27648 to prevent

the petitioner from acting on the pending application for the operation of another Private Emission Testing Center (PETC) in Iloilo City, there were 53,647 registered motor vehicles in Iloilo City. Accordingly, JPV averred in its complaint that there was no need for another PETC because it already had the capability to serve all the registered motor vehicles in Iloilo City pursuant to Department Order No. 2002-31.
[4]

Through its answer, the petitioner contested the injunctive relief being sought by JPV, insisting that such relief, if issued, would result into a monopoly on the part of JPV in the operation of a PETC; that the writ of injunction would prevent the exercise by the City Mayor of his discretionary power to issue or not to issue business permits; and that JPV did not establish the existence of its right *in esse* to be protected by the writ of injunction.
[5]

On June 18, 2003, Grahhar Emission Testing Center (Grahhar), another PETC operator with a pending application for a business/mayor's permit to operate its own PETC in Iloilo City, sought leave of court to intervene in Civil Case No. 03-27648.
[6]

Although it allowed the intervention of Grahhar on June 24, 2003, the RTC nonetheless issued the first assailed order granting the application of JPV for the writ of preliminary injunction,
[7] also on June 24, 2003, disposing as follows:

WHEREFORE, let the Writ of Preliminary Prohibitory Injunction issue. The defendant City of Iloilo, his agents, representatives or anyone acting for and in his behalf is ordered to refrain and desist from the issuance of a Mayor's Permit to operate a PETC in the City of Iloilo.

It is understood that the herein injunction shall be dissolved the moment the DOTC authorizes the operations of another or additional PETC in the City of Iloilo.

The plaintiff is directed to post an Injunction Bond in the amount of Php 100,000.00 executed in favor of the defendant to the effect that Plaintiff will pay the defendant all damages which it may sustain by reason of the injunction should the court finally decide that plaintiff is not entitled thereto.

SO ORDERED.

The petitioner moved for the reconsideration of the first assailed order of June 24, 2003 and prayed for the dissolution of the writ of preliminary injunction.
[8] On August 15, 2003, however, the RTC issued the second assailed order denying the petitioner's *Motion for Reconsideration*,
[9] to wit:

This resolves the motion for reconsideration of the Order dated June 24, 2003.

It must be noted that the writ of injunction was issued to give effect to the Department Order No. 2002-31 dated August 20, 2002 of the DOTC to prevent the degradation of the level of service of the smoke emission test. The amendment of certain section of the said department order, thereby reducing the vehicle requirements from 15,000 to 12,000

vehicles per one (1) PETC lane does not in anyway require for an additional PETC to operate since the LTO is also operating two-lanes testing facilities which can serve 24,000 vehicles plus the four-lanes testing facilities currently operated by the herein plaintiff can accommodate 72,000 vehicles which is more than enough to serve the 53,647 registered vehicles in the City of Iloilo. To allow additional PETC will surely result to an unhealthy competition which will run counter to the purpose of the DOTC Department Order No. 2002-31, i.e., *to ensure that "cut throat" or "ruinous" competition that may result to the degradation of level of service of the project is avoided, authorization of PETC should strictly be rationalized taking into consideration the vehicle population expected to be serviced in the area.*

WHEREFORE, the motion for reconsideration is hereby denied. The Order dated June 24, 2003 stands.

SO ORDERED.

It is relevant to note that Grahar filed its own *Urgent Motion for Reconsideration on the Issuance of a Writ of Preliminary Prohibitory Injunction in Favor of the Plaintiff*, [10] whereby it brought to the attention of the RTC the fact that the DOTC had meanwhile issued on April 10, 2003 Department Order No. 2003-24 (with the subject "AN ORDER AMENDING CERTAIN SECTIONS OF DEPARTMENT ORDER NO. 2002-31") in order to reduce the required vehicle capacity per lane of PETCs from 15,000 vehicles to 12,000 vehicles. Grahar contended that JPV's capacity and capability were no longer sufficient to serve the emission testing requirements of the entire motor vehicle population of Iloilo City.

Issue

Hence, on November 5, 2003, [11] the petitioner has come directly to the Court on *certiorari* to challenge the foregoing orders, specifically asserting:

- A. THAT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ORDER DATED JUNE 24, 2003 ORDERING PETITION[ER] CITY MAYOR OF ILOILO (*sic*), HIS AGENTS REPRESENTATIVES OR ANYONE ACTING FOR AND IN HIS BEHALF TO REFRAIN AND DESIST FROM THE ISSUANCE OF A MAYOR'S PERMIT TO OPERATE A PRIVATE EMISSION TESTING CENTER IN THE CITY OF ILOILO, WHICH IN EFFECT PREVENTED THE EXERCISE BY PETITIONER CITY MAYOR (*sic*) OF A DISCRETIONARY POWER GRANTED BY LAW, ABSENT ANY SHOWING OF ABUSE IN THE EXERCISE THEREOF.
- B. THAT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING THAT DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS ORDER NO. 2002-31 PROVIDES A BASIS FOR THE ISSUANCE OF A WRIT OF PRELIMINARY PROHIBITORY INJUNCTION IN FAVOR OF RESPONDENT AND AS AGAINST

PETITIONER CITY MAYOR (*sic*).

C. THAT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING PETITIONER'S MOTION FOR RECONSIDERATION AS CONTAINED IN ITS ORDER OF AUGUST 15, 2003.

In its comment,^[12] JPV counters that the petitioner made no showing of grave abuse of discretion by the RTC because it had established its capability to serve the entire needs of Iloilo City for the PETC.

In its reply,^[13] the petitioner adverts to Department Order No. 2003-51, another DOTC order issued on October 13, 2003 (with the subject "AN ORDER NULLIFYING SECTIONS 2 AND 3 OF DEPARTMENT ORDER NO. 2002-31"), and submits:

In deference to the opinion of the Office of the Solicitor General dated 10 July 2003 which as quoted verbatim "policy considerations dictate that open competition will better serve public needs because it will result in better service for a lesser price to motor vehicle owners" and further stressed that "Further, the lifting of a quota for each lane will eschew future litigations on the matter", Sections 2 and 3 of Department Order No. 2002-31 are hereby nullified.

All previous and/or issuances that are found inconsistent herewith are hereby amended.^[14]

In the cited opinion, the Solicitor General opined and recommended that "the LTO may validly eliminate the basis or quota of vehicles to be serviced by PETC lanes."^[15]

Ruling of the Court

The Court grants the petition for *certiorari*.

A preliminary injunction is an order granted at any stage of an action or proceeding 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. Its essential role is preservative of the rights of the parties in order to protect the ability of the court to render a meaningful decision,^[16] or in order to guard against a change of circumstances that will hamper or prevent the granting of the proper relief after the trial on the merits.^[17] Another essential role is preventive of the threats to cause irreparable harm or injury to a party before the litigation could be resolved. In *Pahila-Garrido v. Tortogo*,^[18] we have explained the preservative or preventive character of injunction as a remedy in the course of the litigation, *viz.*:

Generally, injunction, being a preservative remedy for the protection of substantive rights or interests, is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. It is resorted to only when there is a pressing necessity to avoid injurious consequences that cannot be redressed under any standard of compensation. The controlling reason for the existence of the judicial power to issue the writ of injunction is that the court may thereby prevent a threatened or