

## THIRD DIVISION

[ G.R. No. 135433, April 04, 2001 ]

**SPS. VIRGILIO AND GLYNNA F. CRYSTAL, ACTING FOR THEMSELVES AND AS PARENTS OF MINOR CHILDREN MONICA CLAIRE CRYSTAL AND FRANCES LORRAINE<sup>[1]</sup> CRYSTAL, PETITIONERS, VS. CEBU INTERNATIONAL SCHOOL, HERBERT BUOT, STEPHEN PARADIES, THE BOARD OF TRUSTEES OF CEBU INTERNATIONAL SCHOOL, AND SUPERINTENDENT LUZ ISOBAL, RESPONDENTS.**

### DECISION

**PANGANIBAN, J.:**

A writ of preliminary injunction, whether mandatory or prohibitory, will be issued only upon a showing of a clear and unmistakable right that is violated. Moreover, the applicant must show an urgent and permanent necessity for its issuance. Herein petitioners, however, failed to demonstrate a clear and unmistakable right to be enrolled in the Cebu International School. Hence, the Court of Appeals cannot be faulted for denying their plea.

#### The Case

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the March 16, 1998 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 44486. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, for lack of sufficient merit, the instant petition is DENIED and, accordingly, DISMISSED, without pronouncement as to costs."<sup>[3]</sup>

Also assailed is the August 10, 1998 CA Resolution denying petitioners' Motion for Reconsideration.

The present case stemmed from Civil Case No. CEB-19058 entitled "Spouses Virgilio F. Crystal, et al., plaintiffs vs. Cebu International School, et al., defendants," in which petitioners' application for the issuance of a writ of preliminary injunction was denied by the Regional Trial Court (RTC) of Cebu, as follows:

"WHEREFORE, premises considered, plaintiffs' application for a writ of preliminary injunction is hereby DENIED for lack of merit and basis in law. Needless to stress, the restraining order previously issued is consequently vacated.

"Accordingly, the Clerk of Court of this Branch is directed to set the pre-trial conference to a date compatible with the Court's calendar."<sup>[4]</sup>

#### The Facts

The facts of the case are succinctly summarized by the Court of Appeals in this wise:

"In the amended complaint they filed with the respondent court on August 8, 1996, the petitioners-spouses Virgilio and Glynna Crystal alleged that they sent all their children -- Sheryll Louise, Doreen Angeli, Monica Claire and Frances Loraine -- to study at the private respondent Cebu International School (CIS). Sheryll Louise and Doreen Angeli finished their elementary and secondary education at the said school; while Monica Claire completed kindergarten up to Grade 7 and Franc[e]s Loraine, kindergarten up to Grade 3 in the schoolyear 1995-96, thereby entitling the latter two to enroll in the next higher grade in the schoolyear 1996-97.

"On June 21, 1996, the petitioners parents and children went to CIS to enroll. After complying with the school's enrollment and admission requirements, they were given the schedule of fees for Grades 4 and 8, as well as the summary of total fees due upon enrollment in the amount of P35,187.00. However, without any justifiable reason, the school refused to accept the payment by the petitioners of the enrollment fees unless they also pay the other charges called 'land purchase deposit' in the amount of P50,000.00 per student plus surcharge of 2.5% per month starting from the schoolyear 1995-96.

"The school and its officials, all of whom are impleaded herein as private respondents, allegedly justified the 'land purchase deposit' for the schoolyear 1995-96 by impressing upon the petitioners 'that they have found the land in Busay that they can purchase at a very reasonable price and if the money is not made available at the time, the x x x school would lose the opportunity to purchase the land where the x x x school will transfer.' The petitioners were forced to pay P25,000.00 in the schoolyear 1995-96 because otherwise their application for admission could have been rejected. However, when the CIS failed to purchase the land in Busay, they demanded that the P25,000.00 be applied to the balance of their tuition fees for the schoolyear 1995-96 to which the private respondents acceded.

"Subsequently, the private respondents re-imposed the 'land purchase deposit' and assessed against the petitioner a surcharge of P24,746.79. The imposition is violative of B.P. Blg. 232, R.A. No. 5445, P.D. No. 603, the Manual for Private Schools and other pertinent laws, rules and regulations of the Department of Education, Culture and Sports (DECS) which did not authorize or priorly approve the same. Thus, the petitioners parents felt that a 'gun was pointed at their head, with the children held as hostage.' So, they made a tender of the P100,000.00 under compulsion but was refused unless they also pay the surcharge of P24,396.69.

"The petitioners thereafter repeatedly tendered payment of the total fees due upon enrollment computed at P38,170.00 and pleaded for the admission of their daughters for enrollment and for the release of their

report cards but were just ignored by the respondents. Consequently, they suffered damages. Accordingly, they prayed for the following reliefs:

` WHEREFORE, it is most respectfully prayed that Judgment be ordered:

` 1. Immediately enjoining the defendants from enforcing and collecting the `land purchase deposit' and its `surcharge' as prerequisite for enrollment and/or ordering the defendants to immediately accept the plaintiffs' application for admission and/or to immediately admit the plaintiffs in Grade 4 and Grade 8 respectively at the defendant school and to accept the payment in the amount of P35,187.00;

` 2. After trial, making the injunction above mentioned permanent and:

` a. Declaring the imposition and collection of `land purchase deposit' and surcharge of 2.5% per month as illegal, unreasonable and oppressive;

` b. Declaring the imposition and collection of the increase in tuition fees and other fees not approved by the Department of Education and Culture as illegal and ordering the refund thereof to the plaintiffs;

` c. Ordering the defendants to jointly and severally pay plaintiffs the amount of P2,000,000.00 as moral damages; the amount of P500,000.00 as exemplary damages; the amount of P100,000.00 as x x x nominal damages; the amount of P100,000.00 as attorney's fees; and costs of this suit;

` 3. Plaintiffs pray for such other reliefs and remedy consistent with law and equity.'

"On August 12, 1996, after conducting a summary hearing and after the petitioners consigned the amount of P35,187.00, the respondent court issued a temporary restraining order of this tenor:

` WHEREFORE, the defendants are hereby restrained from imposing on the plaintiffs any amount, except the total amount due upon enrollment, as reflected in the Schedule of Fees for Grades 4 and 8.

` Set the hearing of the application for preliminary injunction on August 21 and 22, 1996, all at 3:00 P.M.'

"Meanwhile, the private respondents tendered their answer dated September 13, 1996. They averred that it was not on June 21, 1996 but on June 28 that petitioner Glynnia Crystal alone went to the respondent CIS to enroll Frances Loraine and Monica Claire by paying all school required fees, not with cash but with checks postdated to July 15, 1996 or at the end of July 1996. Her postdated checks were not accepted because the respondent CIS Board of Trustees had earlier decided that the petitioners should pay either in cash or in manager's check because on several instances in the past their personal checks either bounced or were delayed in encashment due to their advice not to cash the same until further notice. The land purchase deposit of P50,000.00 per student is not an additional requirement for enrollment or admission as it is refundable once the student graduates or otherwise decides to leave the school. It was imposed after prior consultation with the parents and upon agreement of all parents, including the petitioners, to enable the school to purchase a piece of land and to construct new school buildings and other facilities to which the CIS will transfer and occupy after the expiration of its lease contract with the Province of Cebu over its present site. The 2.5% surcharge per month refers to the late payment of the deposit under Option 3 which the petitioners themselves finally chose after they were not able to comply with Option 2 which was their earlier preference.

"The land purchase deposit of P50,000.00 [was] not required to be approved by DECS since it [was] refundable. At most, only a prior consultation with the parents was necessary, which was done. It became operational in the school year 1995-96 and the petitioners then voluntarily deposited the initial amount of P25,000.00 under Option 2, or P12,500.00 each for Monica Claire and Frances Loraine Crystal. The three other installments of P25,000.00 each to complete the total of P100,000.00 for the two children were due on August 31, 1995, October 31, 1995 and January 31, 1996. Later on, however, the petitioners requested that their land purchase deposit of P25,000.00 be applied to the outstanding tuition fees of their children so that the latter could take their final exams in the schoolyear 1995-96 and that henceforth they would avail of Option 3 for their land purchase deposit. The respondents acceded. So at the beginning of the schoolyear 1996-97, there was due from the petitioners refundable land purchase deposit in the principal amount of P100,000.00 for the two children plus surcharge of P24,386.69. These amounts, together with petitioners' tuition fees for the schoolyear 1996-97 in the amount of P35,187.00, have remained unpaid to the school, although plaintiff's counsel informed the respondents by letter that the sum of P35,187.00 ha[d] been consigned with the respondent court. The private respondents thus counterclaimed for damages in the court below and prayed that petitioners' complaint be dismissed.

"On February 6, 1997, after a full-blown hearing on the petitioners' prayer for a writ of preliminary injunction, the respondent court issued its first assailed Order denying the writ and vacating the earlier TRO. It rationalized thus: