



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

DEPARTMENT OF PUBLIC WORKS  
AND HIGHWAYS (DPWH),  
represented by SEC. HERMOGENES  
E. EBDANE, JR, and  
METROPOLITAN MANILA  
DEVELOPMENT AUTHORITY,  
represented by CHAIRMAN BAYANI  
F. FERNANDO,  
Petitioners,

G.R. No. 182944

Present:

CARPIO, *Chairperson*,  
BRION,  
DEL CASTILLO,  
MENDOZA,\* and  
LEONEN, *JJ*.

-versus-

CITY ADVERTISING VENTURES  
CORPORATION, represented by  
DEXTER Y. LIM,  
Respondent.

Promulgated:  
09 NOV 2016

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DECISION

LEONEN, *J.*:

For a writ of preliminary injunction to be issued, the applicant must show, by prima facie evidence, an existing right before trial, a material and substantial invasion of this right, and that a writ of preliminary injunction is necessary to prevent irreparable injury.

This resolves a Petition for Review on Certiorari<sup>1</sup> praying that the

\* On official leave.

<sup>1</sup> *Rollo*, pp. 23-68. The Petition was filed under Rule 45 of the 1997 Rules of Civil Procedure.

assailed December 3, 2007<sup>2</sup> and May 14, 2008<sup>3</sup> Resolutions of the Court of Appeals in CA GR. SP No. 101420 be set aside; and that Branch 66 of the Regional Trial Court of Makati City be prohibited from conducting further proceedings in Civil Case No. 06-899.<sup>4</sup> The Petition also prays that the Regional Trial Court be ordered to dismiss Civil Case No. 06-899.<sup>5</sup>

The Court of Appeals' December 3, 2007 Resolution denied petitioners Department of Public Works and Highways and the Metropolitan Manila Development Authority's Petition for Certiorari and Prohibition,<sup>6</sup> which sought to annul the Regional Trial Court's November 21, 2006<sup>7</sup> and April 11, 2007<sup>8</sup> Orders in Civil Case No. 06-899. The Court of Appeals' May 14, 2008 Resolution denied the Motion for Reconsideration of the Department of Public Works and Highways and the Metropolitan Manila Development Authority.<sup>9</sup>

The Regional Trial Court's November 21, 2006 Order granted City Advertising Ventures Corporation's prayer for the issuance of a writ of preliminary injunction in its Complaint for "Violation of [Administrative Order No.] 160, Tort, [and] Injunction,"<sup>10</sup> which was docketed as Civil Case No. 06-899. The April 11, 2007 Order of the Regional Trial Court denied the Department of Public Works and Highways and the Metropolitan Manila Development Authority's Omnibus Motion,<sup>11</sup> which sought reconsideration of its November 21, 2006 Order.

Respondent City Advertising Ventures Corporation is a company engaged in the advertising business, such as putting up banners and signages within Metro Manila.<sup>12</sup>

On December 28, 2005, City Advertising Ventures Corporation entered into a lease agreement with the MERALCO Financing Services Corporation<sup>13</sup> for the use of 5,000 of Manila Electric Company's

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<sup>2</sup> Id. at 73–74. The Resolution was penned by Associate Justice Apolinario D. Bruselas, Jr., and concurred in by Associate Justices Bienvenido L. Reyes (now Associate Justice of this Court) and Fernanda Lampas-Peralta of the Special Tenth Division, Court of Appeals, Manila.

<sup>3</sup> Id. at 76–77. The Resolution was penned by Associate Justice Apolinario D. Bruselas, Jr., and concurred in by Associate Justices Bienvenido L. Reyes (now Associate Justice of this Court) and Fernanda Lampas-Peralta of the Former Special Tenth Division, Court of Appeals, Manila.

<sup>4</sup> Id. at 66.

<sup>5</sup> Id.

<sup>6</sup> Id. at 290–337.

<sup>7</sup> Id. at 227–228.

<sup>8</sup> Id. at 288–289.

<sup>9</sup> Id. at 76–77.

<sup>10</sup> Id. at 95–106. The Complaint was with a prayer for temporary restraining order, preliminary injunction, and preliminary mandatory injunction.

<sup>11</sup> Id. at 229–279.

<sup>12</sup> Id. at 220.

<sup>13</sup> Id. "[T]he sole Meralco-authorized marketing and managing firm for meralco-owned streetlight posts constructed and standing on various locations in different streets and municipalities in the Philippines."

(MERALCO) lampposts to display advertising banners.<sup>14</sup> Under this contract, City Advertising Ventures Corporation obtained sign permits from Quezon City's Department of Engineering, Office of the Building Official, Signboard Permit Section.<sup>15</sup> It obtained similar permits for the cities of Pasay and Makati.<sup>16</sup> City Advertising Ventures Corporation likewise obtained permits for setting up pedestrian overpass banners in Quezon City.<sup>17</sup>

When Typhoon Milenyo hit in September 2006, several billboards in Metro Manila were blown by strong winds and fell. In its wake, Former President Gloria Macapagal-Arroyo, through Executive Secretary Eduardo R. Ermita, issued Administrative Order No. 160<sup>18</sup> dated October 4, 2006 "[d]irecting the Department of Public Works and Highways to conduct field investigations, evaluations and assessments of all billboards and determine those that are hazardous and pose imminent danger to life, health, safety and property of the general public and to abate and dismantle the same."<sup>19</sup> Six (6) days later, on October 10, 2006, Administrative Order No. 160-A<sup>20</sup> was issued, supplementing Administrative Order No. 160 and "[s]pecifying the legal grounds and procedures for the prohibition and abatement of billboards and signboards constituting public nuisance or other violations of law."<sup>21</sup>

Section 1 of Administrative Order No. 160 laid out instructions to the Department of Public Works and Highways, as follows:

SECTION 1. Tasks of the DPWH. The DPWH is hereby tasked to:

1.1. Conduct field inspection and determine (a) billboards posing imminent danger or threat to the life, health, safety and property of the public; (b) billboards violating applicable laws, rules and regulations; (c) billboards constructed within the easement of road right-of-way; and (d) billboards constructed without the necessary permit. Priority shall be given to billboards located along major roads in Metro Manila and other cities and other national highways and major thoroughfares, as determined by DPWH;

1.2. Upon evaluation and assessment, issue a certification as to those billboards found to be hazardous and violative of existing standards prescribed by the National Building Code, Structural Code of the Philippines and other related legal issuances furnishing copy [sic] of the certification to the LGUs concerned which have jurisdiction over the location of the billboards;

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<sup>14</sup> Id. at 221.

<sup>15</sup> Id. at 96 and 221. Annexes "A" to "M" of respondent's Complaint.

<sup>16</sup> Id. at 223.

<sup>17</sup> Id. at 96. Annexes "N" to "HH" of respondent's Complaint.

<sup>18</sup> Id. at 86-89.

<sup>19</sup> Id. at 86.

<sup>20</sup> Id. at 91-93.

<sup>21</sup> Id. at 91.

1.3. Abate and dismantle those billboards, commercial or non-commercial, constructed on private or public properties found to be falling under any and all grounds enumerated in paragraph 1.1. above;

1.4. Submit a detailed written report to the Department of Justice (DOJ) to serve as basis for the possible filing of appropriate civil or criminal cases;

1.5. Call upon the Philippine National Police (PNP) to provide assistance in the dismantling of billboards and other off-site signs declared as covered under paragraph 1.1. above.<sup>22</sup>

Section 2 of Administrative Order No. 160 provided that the Department of Public Works and Highways shall be assisted by the Metro Manila Development Authority and by local government units:

SECTION 2. Assistance by MMDA and LGUs. The Metropolitan Manila Development Authority (MMDA) and/or the concerned LGUs are hereby directed to give full support and assistance to the DPWH for the immediate inspection, assessment and abatement of billboards found to be hazardous and violative of the National Building Code, Structural Code of the Philippines and other related issuances.<sup>23</sup>

Proceeding from Articles 694,<sup>24</sup> 695,<sup>25</sup> and 699<sup>26</sup> of the Civil Code, Administrative Order No. 160-A identified the remedies available to the Department of Public Works and Highways:

SECTION 4. Remedies Against Public Nuisance. Pursuant to Article 699 of the Civil Code, in relation to AO No. 160, dated October 4, 2006, the Department of Public Works and Highways (DPWH), through its Secretary, with the help of the Metropolitan Manila Development Authority (MMDA), and the various local government units (LGUs), through the local Building Officials, shall take care that one or all of the

<sup>22</sup> Id. at 87.

<sup>23</sup> Id.

<sup>24</sup> CIVIL CODE, art. 694 provides:

Article 694. A nuisance is any act, omission, establishment, business, condition of property, or anything else which:

- (1) Injures or endangers the health or safety of others; or
- (2) Annoys or offends the senses; or
- (3) Shocks, defies or disregards decency or morality; or
- (4) Obstructs or interferes with the free passage of any public highway or street, or any body of water; or
- (5) Hinders or impairs the use of property.

<sup>25</sup> CIVIL CODE, art. 695 provides:

Article 695. Nuisance is either public or private. A public nuisance affects a community or neighborhood or any considerable number of persons, although the extent of the annoyance, danger or damage upon individuals maybe unequal. A private nuisance is one that is not included in the foregoing definition.

<sup>26</sup> CIVIL CODE, art. 699 provides:

Article 699. The remedies against a public nuisance are:

- (1) A prosecution under the Penal Code or any local ordinance; or
- (2) A civil action; or
- (3) Abatement, without judicial proceedings.

following remedies against public nuisances are availed of:

- (a) A prosecution under the Revised Penal Code or any local ordinance; or
- (b) A civil action; or
- (c) Abatement, without judicial proceedings, if the local Building Official determines that this is the best remedy under the circumstances.<sup>27</sup>

On October 6, 2006, the Department of Public Works and Highways announced that they would start dismantling billboards.<sup>28</sup> During its operations, it was able to remove 250 of City Advertising Ventures Corporation's lamppost banners and frames, 12 pedestrian overpass banners, 17 pedestrian overpass frames, and 36 halogen lamps.<sup>29</sup>

City Advertising Ventures Corporation then filed before the Regional Trial Court of Makati City its Complaint for "Violation of [Administrative Order No.] 160, Tort, [and] Injunction with Prayer for [Temporary Restraining Order], Preliminary Injunction, and Preliminary Mandatory Injunction"<sup>30</sup> dated October 18, 2006.

Asserting that Administrative Order No. 160 pertained specifically to "billboards" (i.e., "large panel[s] that carr[y] outdoor advertising") and not to small advertising fixtures such as its signages and banners, City Advertising Ventures Corporation claimed that the Department of Public Works and Highways exceeded its authority when it dismantled its banners and other fixtures.<sup>31</sup> It also claimed that the Department of Public Works and Highways "seriously impeded the pursuit of [its] legitimate business and . . . unlawfully deprived [it] of property, income and income opportunities . . . without due process of law,"<sup>32</sup> violated Articles 19,<sup>33</sup> 20,<sup>34</sup> 21<sup>35</sup> and 32(2), (6), and (8)<sup>36</sup> of the Civil Code, and impaired contractual obligations.<sup>37</sup>

<sup>27</sup> *Rollo*, pp. 92-93.

<sup>28</sup> *Id.* at 99.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 95-106.

<sup>31</sup> *Id.* at 99-100.

<sup>32</sup> *Id.* at 101.

<sup>33</sup> CIVIL CODE, art. 19 provides:

Article 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

<sup>34</sup> CIVIL CODE, art. 20 provides:

Article 20. Every person who, contrary to law, wilfully or negligently causes damage to another, shall indemnify the latter for the same.

<sup>35</sup> CIVIL CODE, art. 21 provides:

Article 21. Any person who wilfully causes loss or injury to another in manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

<sup>36</sup> Civil Code, art. 32 provides:

Article 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

....

(2) Freedom of speech;

....

*l*

After conducting summary hearings on October 25 and 30, 2006, Branch 66 of the Regional Trial Court of Makati City issued the Order<sup>38</sup> dated October 31, 2006 granting City Advertising Ventures Corporation’s prayer for a temporary restraining order. This Order stated:

Such being the case, the Court is left with no recourse but to GRANT the Temporary Restraining Order from [sic] a period of twenty (20) days from today.

ACCORDINGLY, the defendants are hereby restrained from further removing, dismantling, and confiscating any of plaintiff’s lamppost and pedestrian overpass banners.

In the meantime, let the hearing on the plaintiff’s application for Writ of Preliminary Injunction [be set] on November 8, 2006 at 2:00 p.m.

Let a copy of this order be served upon the defendants at the expense of the plaintiff through the Process Server of this Court.

SO ORDERED.<sup>39</sup>

In the Order<sup>40</sup> dated November 21, 2006, the Regional Trial Court granted City Advertising Ventures Corporation’s prayer for the issuance of a writ of preliminary injunction:

Wherefore, plaintiff’s prayer for the issuance of a writ or preliminary injunction is granted. Accordingly, let a writ of injunction issue upon the filing by the plaintiff of a bond in the amount of PESOS ONE HUNDRED THOUSAND (P100,000.00) executed to the defendants to the effect that the plaintiff will pay all damages defendants may suffer by reason of this injunction should the Court finally decide that the plaintiff is not entitled thereto. The defendants, their agents and representatives are hereby ordered to cease and desist from further removing, dismantling and confiscating any of plaintiff’s lamppost and pedestrian overpass banners.

Let the hearing on the main case be set on January 23, 2006 [sic] at

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(6) The right against deprivation of property without due process of law;

....

(8) The right to the equal protection of the laws;

....

In any of the cases referred to in this article, whether or not the defendant's act or omission constitutes a criminal offense, the aggrieved party has a right to commence an entirely separate and distinct civil action for damages, and for other relief. Such civil action shall proceed independently of any criminal prosecution (if the latter be instituted), and may be proved by a preponderance of evidence.

The indemnity shall include moral damages. Exemplary damages may also be adjudicated.

The responsibility herein set forth is not demandable from a judge unless his act or omission constitutes a violation of the Penal Code or other penal statute.

<sup>37</sup> *Rollo*, p. 102.

<sup>38</sup> *Id.* at 220–225. The Order was penned by Judge Reynaldo M. Laigo.

<sup>39</sup> *Id.* at 225.

<sup>40</sup> *Id.* at 227–228. The Order was penned by Judge Joselito Villarosa.

8:30 in the morning.

SO ORDERED.<sup>41</sup>

In response, the Department of Public Works and Highways and the Metropolitan Manila Development Authority filed an Omnibus Motion for Reconsideration and Clarification of the November 21, 2006 Order and for the Dissolution of the Writ of Preliminary Injunction.<sup>42</sup> They asserted that City Advertising Ventures Corporation failed to show a clear legal right worthy of protection and that it did not stand to suffer grave and irreparable injury.<sup>43</sup> They likewise asserted that the Regional Trial Court exceeded its authority in issuing a writ of preliminary injunction.<sup>44</sup>

In the Order<sup>45</sup> dated April 11, 2007, the Regional Trial Court denied the Omnibus Motion.

Thereafter, the Department of Public Works and Highways and the Metropolitan Manila Department Authority filed before the Court of Appeals a Petition for Certiorari and Prohibition.<sup>46</sup> In its assailed December 3, 2007 Resolution,<sup>47</sup> the Court of Appeals denied the Petition. In its assailed May 14, 2008 Resolution,<sup>48</sup> the Court of Appeals denied the Motion for Reconsideration.

Hence, this Petition<sup>49</sup> was filed.

On November 3, 2008, respondent City Advertising Ventures Corporation filed its Comment.<sup>50</sup> On April 14, 2009, petitioners filed their Reply.<sup>51</sup>

In the Resolution<sup>52</sup> dated July 7, 2010, this Court issued a temporary restraining order enjoining the implementation of the Regional Trial Court's November 21, 2006 and April 11, 2007 Orders, as well as of a subsequent May 21, 2010 Order, which reiterated the trial court's November 21, 2006 and April 11, 2007 Orders.

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<sup>41</sup> Id. at 228.  
<sup>42</sup> Id. at 23-67.  
<sup>43</sup> Id. at 229-279.  
<sup>44</sup> Id. at 249.  
<sup>45</sup> Id. at 288-289.  
<sup>46</sup> Id. at 290-337.  
<sup>47</sup> Id. at 73-74.  
<sup>48</sup> Id. at 76-77.  
<sup>49</sup> Id. at 23-68.  
<sup>50</sup> Id. at 376-391.  
<sup>51</sup> Id. at 406-432.  
<sup>52</sup> Id. at 349-351.

For resolution is the sole issue of whether the Regional Trial Court gravely abused its discretion in issuing its November 21, 2006 and April 11, 2007 Orders.

## I

After seeking relief from the Court of Appeals through the remedy of a petition for certiorari and prohibition under Rule 65 of the 1997 Rules of Civil Procedure, petitioners come to this Court through a petition for review on certiorari under Rule 45. The distinctions between Rule 65 and Rule 45 petitions have long been settled. A Rule 65 petition is an original action, independent of the action from which the assailed ruling arose. A Rule 45 petition, on the other hand, is a mode of appeal. As such, it is a continuation of the case subject of the appeal. In *Sy v. Commission on Settlement of Land Problems*:<sup>53</sup>

[T]he remedy of certiorari under Rule 65 is not a component of the appeal process. It is an original and independent action that is not a part of the trial which resulted in the rendition of the judgment complained of. In contrast, the exercise of our appellate jurisdiction refers to a process which is but a continuation of the original suit.<sup>54</sup>

As it is a mere continuation, a Rule 45 petition (apart from being limited to questions of law) cannot go beyond the issues that were subject of the original action giving rise to it. This is consistent with the basic precept that:

As a rule, no question will be entertained on appeal unless it has been raised in the court below. Points of law, theories, issues and arguments not brought to the attention of the lower court need not be, and ordinarily will not be, considered by a reviewing court, as they cannot be raised for the first time at that late stage. Basic considerations of due process impel this rule.<sup>55</sup>

<sup>53</sup> 417 Phil. 378 (2001) [Per J. De Leon, Jr., Second Division].

<sup>54</sup> Id. at 393, citing *Dando v. Fraser*, G.R. No. 102013, October 8, 1993, 227 SCRA 126, 134 [Per J. Quiason, First Division] and *Morales v. Court of Appeals*, 340 Phil. 397, 416 (1997) [Per J. Davide, Jr., Third Division]. *Del Rosario v. Bonga*, 402 Phil. 949, 960 (2001) [Per J. Panganiban, Third Division] recognized exceptions: "Indeed, there are exceptions to the aforesaid rule that no question may be raised for the first time on appeal. Though not raised below, the issue of lack of jurisdiction over the subject matter may be considered by the reviewing court, as it may be raised at any stage. The said court may also consider an issue not properly raised during trial when there is plain error. Likewise, it may entertain such arguments when there are jurisprudential developments affecting the issues, or when the issues raised present a matter of public policy" (Citations omitted).

<sup>55</sup> *Del Rosario v. Bonga*, 402 Phil. 949, 957-958 (2001) [Per J. Panganiban, Third Division], citing *Keng Hua v. Court of Appeals*, 349 Phil. 925, 937 (1998) [Per J. Panganiban, First Division]; *Arcelona v. Court of Appeals*, 345 Phil. 250, 275-276 (1997) [Per J. Panganiban, Third Division]; *Mendoza v. Court of Appeals*, 340 Phil. 364 (1997) [Per J. Panganiban, Third Division]; *Remman Enterprises, Inc., v. Court of Appeals*, 335 Phil. 1150, 1162 (1997) [Per J. Panganiban, Third Division], and RULES OF COURT, Rule 44, sec. 15.



Rule 45 petitions engendered by prior Rule 65 petitions for certiorari and/or prohibition are, therefore, bound by the same basic issue at the crux of the prior Rule 65 petition, that is, “issues of jurisdiction or grave abuse of discretion.”<sup>56</sup> When Rule 45 petitions are brought before this Court, they remain tethered to the “sole office”<sup>57</sup> of the original action to which they owe their existence: “the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack or excess of jurisdiction.”<sup>58</sup>

When petitioners sought relief from the Court of Appeals, what they sought to remedy was the Regional Trial Court’s issuance of its November 21, 2006 and April 11, 2007 Orders. These were interlocutory orders pertaining to a temporary relief extended to respondent, that is, a writ of preliminary injunction. These orders were not judgments that completely disposed of Civil Case No. 06-899. They were not the Regional Trial Court’s final ruling on Civil Case No. 06-899. By the time petitioners sought redress from the Court of Appeals (and even at the time of the filing of their appeal before this Court), the Regional Trial Court had not yet even ruled on the merits of Civil Case No. 06-899.

The question before the Court of Appeals was, therefore, limited to the matter of whether the Regional Trial Court’s issuance of a writ of preliminary injunction was tainted with grave abuse of discretion. On appeal from the original action brought before the Court of Appeals, it is this same, singular issue that confronts us.

This Court cannot, at this juncture, entertain petitioners’ prayer that the Regional Trial Court be ordered to dismiss Civil Case No. 06-899. Ruling on the complete cessation of a civil action on grounds other than those permitted by Rule 16<sup>59</sup> of the 1997 Rules of Civil Procedure (on motions to dismiss filed before the filing of an answer and before the

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<sup>56</sup> *Odango v. National Labor Relations Commission*, G.R. No. 147420, June 10, 2004, 431 SCRA 633, 639 [Per J. Carpio First Division], citing *Sea Power Shipping Enterprises, Inc. v. Court of Appeals*, 412 Phil. 603, 611 (2001) [Per J. Buena, Second Division].

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at 427–428, citing *Oro v. Judge Diaz*, 413 Phil. 416 (2001) [Per J. Panganiban, Third Division].

<sup>59</sup> RULES OF COURT, Rule 16, sec. 1 provides:

Section 1. Grounds. — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

- (a) That the court has no jurisdiction over the person of the defending party;
- (b) That the court has no jurisdiction over the subject matter of the claim;
- (c) That venue is improperly laid;
- (d) That the plaintiff has no legal capacity to sue;
- (e) That there is another action pending between the same parties for the same cause;
- (f) That the cause of action is barred by a prior judgment or by the statute of limitations;
- (g) That the pleading asserting the claim states no cause of action;
- (h) That the claim or demand set forth in the plaintiff’s pleading has been paid, waived, abandoned, or otherwise extinguished;
- (i) That the claim on which the action is founded is enforceable under the provisions of the statute of frauds; and
- (j) That a condition precedent for filing the claim has not been complied with.

conduct of trial; on grounds such as supervening events that render a pending action moot, unlitigable; or on grounds that render relief impracticable or impossible) compels an examination of the merits of a case. The case must then be litigated—through trial, reception of evidence, and examination of witnesses. This entire process will be frustrated were this Court to rule on Civil Case No. 06-899's dismissal on the basis only of allegations made in reference to provisional relief extended before trial even started.

In ruling on the propriety of the Regional Trial Court's issuance of a writ of preliminary injunction, both the Court of Appeals and this Court are to be guided by the established standard on what constitutes grave abuse of discretion:

By grave abuse of discretion is meant capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be grave abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.<sup>60</sup>

The sole question, then, is whether the Regional Trial Court, in issuing a writ of preliminary injunction in favor of respondent, acted in a manner that was practically bereft of or violative of legally acceptable standards.

We turn to the basic principles governing the issuance of writs of preliminary injunction.

## II

A writ of preliminary injunction is issued in order to:

[P]revent threatened or continuous irremediable injury to some of the parties *before their claims can be thoroughly studied and adjudicated*. Its sole aim is to preserve the status quo until the merits of the case can be heard fully[.] Thus, it will be issued only upon a showing of a clear and unmistakable right that is violated. Moreover, an urgent necessity for its issuance must be shown by the applicant.<sup>61</sup> (Emphasis supplied)

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<sup>60</sup> *Aurelio v. Aurelio*, 665 Phil 693, 703–704 (2011) [Per J. Peralta, Second Division], citing *Solvic Industrial Corporation v. National Labor Relations Commission*, 357 Phil. 430, 438 (1998) [Per J. Panganiban, First Division]; and *Tomas Claudio Memorial College, Inc. v. Court of Appeals*, 374 Phil 859, 864 (1999) [Per J. Quisumbing, Second Division].

<sup>61</sup> *First Global Realty and Development Corporation v. San Agustin*, 427 Phil. 593, 601–602 (2002) [Per J. Panganiban, Third Division], citing *Republic of the Philippines v. Silerio*, 338 Phil. 784, 791–792 (1997) [Per J. Romero, Second Division]; and *Spouses Crystal v. Cebu International School*, 408 Phil. 409, 420–422 (2001) [Per J. Panganiban, Third Division].

Rule 58, Section 3 of the 1997 Rules of Civil Procedure identifies 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
- (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.

As *Marquez v. Sanchez*<sup>62</sup> summarized, “the requisites of preliminary injunction whether mandatory or prohibitory are the following”:

- (1) the applicant must have a clear and unmistakable right, that is a right *in esse*;
- (2) there is a material and substantial invasion of such right;
- (3) there is an urgent need for the writ to prevent irreparable injury to the applicant; and
- (4) no other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury.<sup>63</sup> (Emphasis in the original)

<sup>62</sup> 544 Phil. 507 (2007) [Per J. Velasco, Jr., Second Division].

<sup>63</sup> *Id.* at 517–518, citing *Hutchison Ports Philippines Ltd. v. Subic Bay Metropolitan Authority*, 393 Phil. 843, 859 (2000) [Per J. Ynares-Santiago, First Division]; and *Biñan Steel Corporation v. Court of Appeals*, 439 Phil. 688, 703–704 (2002) [Per J. Corona, Third Division].

In addition to these substantive requirements, RULES OF COURT, Rule 58, sec. 4 spells out the procedural requirements that must be satisfied before a writ of preliminary injunction may be issued:

Section 4. Verified application and bond for preliminary injunction or temporary restraining order. — A preliminary injunction or temporary restraining order may be granted only when:

- (a) The application in the action or proceeding is verified, and shows facts entitling the applicant to the relief demanded; and
- (b) Unless exempted by the court the applicant files with the court where the action or proceeding is pending, a bond executed to the party or person enjoined, in an amount to be fixed by the court, to the effect that the applicant will pay to such party or person all damages which he may sustain by reason of the injunction or temporary restraining order if the court should finally decide that the applicant was not entitled thereto. Upon approval of the requisite bond, a writ of preliminary injunction shall be issued.
- (c) When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court, shall be raffled only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be preceded, or contemporaneously accompanied, by service of summons,

In satisfying these requisites, parties applying for a writ of preliminary injunction need not set out their claims by complete and conclusive evidence. Prima facie evidence suffices:

It is crystal clear that at the hearing for the issuance of a writ of preliminary injunction, *mere prima facie evidence is needed* to establish the applicant's rights or interests in the subject matter of the main action. It is not required that the applicant should conclusively show that there was a violation of his rights as this issue will still be fully litigated in the main case. Thus, an applicant for a writ is required *only to show that he has an ostensible right to the final relief prayed for* in his complaint.<sup>64</sup> (Emphasis supplied)

*Spouses Nisce v. Equitable PCI Bank*<sup>65</sup> discussed the requisites, vis-a-vis the proof required, for issuing a writ of preliminary injunction:

The plaintiff praying for a writ of preliminary injunction must further establish that he or she has a present and unmistakable right to be protected; that the facts against which injunction is directed violate such right; and there is a special and paramount necessity for the writ to prevent serious damages. In the absence of proof of a legal right and the injury sustained by the plaintiff, an order for the issuance of a writ of preliminary injunction will be nullified. Thus, where the plaintiff's right is doubtful or disputed, a preliminary injunction is not proper. The possibility of irreparable damage without proof of an actual existing right is not a ground for a preliminary injunction.

However, to establish the essential requisites for a preliminary injunction, the evidence to be submitted by the plaintiff need not be conclusive and complete. The plaintiffs are only required to show that they have an ostensible right to the final relief prayed for in their complaint. A writ of preliminary injunction is generally based solely on initial or incomplete evidence. Such evidence need only be a sampling intended merely to give the court an evidence of justification for a preliminary injunction pending the decision on the merits of the case, and is not conclusive of the principal action which has yet to be decided.<sup>66</sup>

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together with a copy of the complaint or initiatory pleading and the applicant's affidavit and bond, upon the adverse party in the Philippines.

However, where the summons could not be served personally or by substituted service despite diligent efforts, or the adverse party is a resident of the Philippines temporarily absent therefrom or is a nonresident thereof, the requirement of prior or contemporaneous service of summons shall not apply.

(d) The application for a temporary restraining order shall thereafter be acted upon only after all parties are heard in a summary hearing which shall be conducted within twenty-four (24) hours after the sheriff's return of service and/or the records are received by the branch selected by raffle and to which the records shall be transmitted immediately.

<sup>64</sup> *Republic v. Evangelista*, 504 Phil. 115, 123 (2005) [Per J. Puno, Second Division], citing *Buayan Cattle Co., Inc. v. Quintillan*, 213 Phil. 244, 254 (1984) [Per J. Makasiar, Second Division]; *Developers Group of Companies, Inc. v. Court of Appeals*, G.R. No. 104583, March 8, 1993, 219 SCRA 715, 722 [Per J. Cruz, First Division]; and *Saulog v. Court of Appeals*, 330 Phil. 590, 602 (1996) [Per J. Puno, Second Division].

<sup>65</sup> 545 Phil. 138 (2007) [Per J. Callejo, Sr., Third Division].

<sup>66</sup> *Id.* at 160–161, citing *Searth Commodities Corporation v. Court of Appeals*, G.R. No. 64220, March 31, 1992, 207 SCRA 622, 628 [Per J. Gutierrez, Jr., Third Division]; *Medina v. Greenfield*

Clearly, 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.

### III

Respondent satisfied the standards for the issuance of a writ of preliminary injunction. The Regional Trial Court acted in keeping with these standards and did not gravely abuse its discretion in extending temporary relief to respondent.

#### III.A

Petitioners have conceded that respondent entered into a lease agreement enabling the latter to use MERALCO's lampposts to display advertising banners.<sup>67</sup> Respondent obtained permits from the local government units of Makati, Pasay, and Quezon City so that it could put up banners and signages on lampposts and pedestrian overpasses.<sup>68</sup>

There was no allegation nor contrary proof "[t]hat the ordinary course of business has been followed."<sup>69</sup> Respondent must have obtained the customary permits and clearances (e.g., Mayor's and business permits as well as registration with the Securities and Exchange Commission and with the Bureau of Internal Revenue) necessary to make itself a going concern.

Respondent's lease agreement with MERALCO Financing Services Corporation and its having secured permits from local government units, for

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*Development Corporation*, 485 Phil. 533, 543 (2004) [Per J. Austria-Martinez, Second Division]; *Olalia, et al. v. Hizon, et al.*, 274 Phil. 66, 74 (1991) [Per J. Cruz, First Division]; *Los Baños Rural Bank, Inc. v. Africa*, 433 Phil. 930, 940 (2002) [Per J. Panganiban, Third Division]; *La Vista Association, Inc. v. Court of Appeals*, 344 Phil. 30, 44 (1997) [Per J. Bellosillo, First Division]; and *Saulog v. Court of Appeals*, 330 Phil. 590, 602 (1996) [Per J. Hermosisima, Jr., First Division].

<sup>67</sup> *Rollo*, p. 221.

<sup>68</sup> *Id.* at 96 and 221, Annexes "A" to "HH" of respondent's Complaint.

<sup>69</sup> REV. RULES ON EVID., Rule 131, sec. 3(q):

Section 3. Disputable presumptions. — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

....  
(q) That the ordinary course of business has been followed[.]

the specific purpose of putting up advertising banners and signages, gave it the right to put up such banners and signages. Respondent had in its favor a property right, of which it cannot be deprived without due process. This is respondent's right *in esse*, that is, an actual right. It is not merely a right *in posse*, or a potential right.

### III.B

Petitioners counter that respondent had no right to put up banners and signages. They point out that on September 2, 2004, the Metro Manila Council passed MMDA Regulation No. 04-004, “[p]rescribing guidelines on the installation and display of billboards and advertising signs along major and secondary thoroughfares, avenues, streets, roads, parks and open spaces within Metro Manila and providing penalties for violation thereof.”<sup>70</sup>

Section 13 of this Regulation identified the officers responsible for issuing clearances for the installation of “billboards/signages and advertising signs,” as follows:

Section 13. The MMDA, thru the Chairman or his duly authorized representative, shall be the approving authority in the issuance of clearance in the installation of billboards/signboards and advertising signs along major thoroughfares of Metro Manila. Upon securing clearance from the MMDA, a permit from the Local Government Unit must be secured. (The list of major thoroughfares is hereto attached as Appendix A of this Regulation).

The City/Municipal Mayor or his duly authorized representative shall be the approving authority in the issuance of permit for the installation/posting billboards/signboards and advertising signs along local roads and private properties of Metro Manila.

Petitioners claim that the dismantling of respondent's banners and signages was “[f]or want of the required MMDA clearance(s) . . . and for other violation[s] of MMDA Regulation No. 04-004.”<sup>71</sup> Petitioners also counter that “sidewalk and streetlight posts are outside the commerce of men”<sup>72</sup> and, therefore, cannot be spaces for respondent's commercial activities. They also claim that respondent's contract with MERALCO Financing Services Corporation has since expired.<sup>73</sup> Petitioners likewise underscore that the right to non-impairment of contracts “is limited by the exercise of the police power of the State, in the interest of public health, safety, morals and general welfare.”<sup>74</sup>

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<sup>70</sup> *Rollo*, pp. 78–83.

<sup>71</sup> *Id.* at 31.

<sup>72</sup> *Id.* at 52.

<sup>73</sup> *Id.* at 52–53.

<sup>74</sup> *Id.* at 53.

Petitioners may subsequently and after trial prove that they are correct. A more thorough examination of prevailing laws, ordinances, and pertinent regulations may later on establish that the use of lampposts and pedestrian overpasses as platforms for visual advertisements advancing private commercial interests contradict the public character of certain spaces. Likewise, petitioners did *subsequently* adduce evidence that, by December 29, 2006, respondent's contract with MERALCO Financing Services Corporation had expired.<sup>75</sup> After trial, it may later on be found that respondent's proprietary interest may be trumped by the general welfare.

*However, at the point when the Regional Trial Court was confronted with respondent's prayer for temporary relief, all that respondent needed was a right ostensibly in existence. Precisely, a writ of preliminary injunction is issued "before [parties'] claims can be thoroughly studied and adjudicated."*<sup>76</sup>

MMDA Regulation No. 04-004's clearance requirements appear to stand in contrast with the permits obtained by respondent from the local government units of Makati, Pasay, and Quezon City. Whether the permits suffice by themselves, or whether respondent's alleged non-compliance with MMDA Regulation No. 04-004 is fatal to its cause, are matters better resolved by a process more painstaking than the summary hearings conducted purely for the purpose of extending provisional remedy.

The phrase "outside the commerce of men"<sup>77</sup> is not an incantation that can be invoked to instantly establish the accuracy of petitioners' claims. 'Public spaces' are not a monolithic, homogenous mass that is impervious to private activity. Determining whether the specific locations where respondent conducts its business is absolutely excluded from commercial activity requires more rigorous fact-finding and analysis.

Although "public health, safety, morals and general welfare"<sup>78</sup> may justify intrusion into private commercial interests, the exercise of police power entails considerations of due process, fitness, and propriety. Even when these considerations are invoked, they do not preemptorily and invariably set aside private property rights. When acting in view of these considerations, state organs must still do so with restraint and act only to the extent reasonably necessary. Whether state organs actually did so is something that can only be adjudged when the competing claims of the State and of private entities are conscientiously and deliberately appraised.

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<sup>75</sup> Id. at 52-53.

<sup>76</sup> *First Global Realty and Development Corporation v. San Agustin*, 427 Phil. 593, 601 (2002) [Per J. Panganiban, Third Division]. See also *Tayag v. Lacson*, G.R. No. 134971, March 25, 2004, 426 SCRA 282 [Per J. Callejo, Sr., Second Division]; *Mabayo Farms, Inc. v. Court of Appeals*, 435 Phil. 112, 118 (2002) [Per J. Quisumbing, Second Division].

<sup>77</sup> *Rollo*, p. 52.

<sup>78</sup> Id. at 53.

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Even by petitioners' own allegation, the expiration of respondent's lease agreement with MERALCO Financing Services Corporation did not happen until after November 21, 2006, when the Regional Trial Court issued the contentious writ of preliminary injunction.<sup>79</sup> It was a subsequent fact, which could have only been proven later during trial, and which was still inefficacious when respondent pleaded for provisional relief.

Petitioners' own arguments demonstrate the need for litigation—a thorough study and adjudication—of the parties' competing claims. When the Regional Trial Court extended provisional relief on November 21, 2006, it did not yet have the benefit of exhaustive litigation. That it acted without such benefit is not something for which it can be faulted. It did not gravely abuse its discretion then, because it did not *yet* need to engage in full litigation.

### III.C

Turning to the other requisites for the issuance of a writ of preliminary injunction, we find that respondent adequately averred and showed a material and substantial invasion of its ostensible right, for which the writ or preliminary injunction was necessary lest that invasion persist and it be made to suffer irreparable injury.

As respondent pointed out, the filing of its Complaint was precipitated by the removal of no less than 250 of its lamppost banners and frames, as well as 12 of its pedestrian overpass banners, 17 pedestrian overpass frames, and 36 halogen lamps.<sup>80</sup> All these were done in the span of less than two (2) weeks.<sup>81</sup> Petitioners do not dispute this. Moreover, nowhere does it appear that petitioners intended to restrict themselves to these 250 lamppost banners and frames, 12 pedestrian overpass banners, 17 pedestrian overpass frames, and 36 halogen lamps. On the contrary, their incessant attempts at having the Regional Trial Court's writ of preliminary injunction lifted—first, on reconsideration at the Regional Trial Court itself; next, on certiorari and prohibition, and later, on reconsideration at the Court of Appeals; then, on appeal before this Court; and still later, on their June 15, 2010 Motion before this Court—are indicative of their sheer resolve to dismantle more. Respondent was left with no justifiable recourse but to seek relief from our courts.

Petitioners' admitted and pronounced course of action directly obstructed respondent's ability to avail itself of its rights under its lease

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<sup>79</sup> Id. at 52–53.

<sup>80</sup> Id. at 99.

<sup>81</sup> Id.



agreement and the permits it secured from local government units. What petitioners sought to restrict was the very essence of respondent's activity as a business engaged in advertising via banners and signages. As the Regional Trial Court explained in its April 11, 2007 Order:

It bears stressing that the lifeblood of a business rests on effective advertising strategies. One of which is the posting of billboards and signages at strategic places. The manner of posting may be regulated by the government but must comply with certain requirements, and should not result in taking of property without due process or in wanton disregard of existing laws. It stands to reason that [petitioners] are not vested with blanket authority to confiscate billboards without warning and in violation of existing laws.<sup>82</sup>

#### IV

Administrative Order No. 160's mere existence, absent a showing of compliance with its instructions, gives no solace to petitioners. Administrative Order No. 160 expressed the Chief Executive's general directive for the abatement of billboards that pose a hazard to the general welfare. In doing so, it did not give petitioner Department of Public Works and Highways unbridled authority to dismantle all billboards and signages. Administrative Order No. 160 prescribed a well-defined process for the carrying out of petitioner Department of Public Works and Highways' functions. Before any such abatement and dismantling—as permitted by paragraph 1.3—paragraphs 1.1 and 1.2 of Administrative Order No. 160 require the Department of Public Works and Highways to: first, conduct field inspections; second, make evaluations and assessments; third, issue certifications as to those billboards found to be hazardous and violative of existing standards; and fourth, furnish copies of these certifications to concerned local government units.

Six (6) days after it was issued, Administrative Order No. 160 was supplemented by Administrative Order No. 160-A.<sup>83</sup> This subsequent issuance recognized that hazardous billboards are public nuisances.<sup>84</sup> Thus, in its Section 4, it prescribed remedies consistent with Article 699 of the Civil Code:

- (a) A prosecution under the Revised Penal Code or any local ordinance; or
- (b) A civil action; or

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<sup>82</sup> Id. at 288.

<sup>83</sup> Id. at 91–93.

<sup>84</sup> This is defined under CIVIL CODE, art. 695:

Article 695. Nuisance is either public or private. A public nuisance affects a community or neighborhood or any considerable number of persons, although the extent of the annoyance, danger or damage upon individuals may be unequal. A private nuisance is one that is not included in the foregoing definition.

- (c) Abatement, without judicial proceedings, if the local Building Official determines that this is the best remedy under the circumstances.<sup>85</sup>

In its October 31, 2006 Order, which issued an initial 20-day temporary restraining order in favor of respondent, the Regional Trial Court emphasized that despite the opportunity extended to petitioners (in the October 25 and 30, 2006 summary hearings) to present evidence of their compliance with paragraphs 1.1 and 1.2 of Administrative Order No. 160, with Section 4 of Administrative Order No. 160-A, or with Article 699 of the Civil Code, petitioners failed to show any such evidence.<sup>86</sup> From all indications, petitioners proceeded to dismantle respondent's banners and signages without having first completed formal or systematic field inspections, as well as evaluations and assessments, and without having first issued written certifications and furnished local government units with copies of these certifications. In the 12-day span between petitioner Department of Public Works and Highways' October 6, 2006 announcement that it would start dismantling billboards, and respondent's October 18, 2006 Complaint, petitioners managed to dismantle a considerable number of respondent's banners and signages while apparently ignoring the same regulations from which they drew their authority:

So far, no evidence has been presented by the [petitioners] to the satisfaction of this Court that they had strictly observed the procedure laid down by Administrative Order No. 160 and prescribed by law for the abatement of billboards and signboards found to have been a public nuisance before carrying their tasks of dismantling the banners and other temporary signages belonging to [respondent].<sup>87</sup>

In its November 21, 2006 Order, the Regional Trial Court reiterated that petitioners had yet to adduce proof of their prior compliance with paragraphs 1.1 and 1.2 of Administrative Order No. 160, with Section 4 of Administrative Order No. 160-A, or with Article 699 of the Civil Code. This, even after the conduct of another hearing on November 8, 2006:<sup>88</sup>

The Court finds that the continuous removal and destruction of [respondent's] billboards without due notice and without following the procedure provided under the law. No price can be placed on the deprivation of a person's right to his property without due process of law.

The New Civil Code provides for remedies against a public nuisance which [respondent's] billboards are classified by [petitioners].

Article 699 of the New Civil Code provides that a public nuisance [may be] prosecuted under the penal code or any local ordinance, by civil

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<sup>85</sup> *Rollo*, p. 93.

<sup>86</sup> *Id.* at 225.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* at 228.

action or by abatement. The district health officer if required to determine whether or not abatement, without judicial proceedings, is the best remedy against a public nuisance. Any private person may abate a public nuisance which is specially injurious to him by removing or if necessary, by destroying the thing which constitutes the same, without committing a breach of the peace, or doing unnecessary injury. But it is necessary: (1) That demand be first made upon the owner or possessor of the property to abate the nuisance; (2) That such demand has been rejected; (3) That the abatement be approved by the district health officer and executed with the assistance of the local police[; and] (4) That the value of the destruction does not exceed three thousand pesos.

However, as found by the Court in the Order granting the temporary restraining order, no evidence was presented by [petitioners] to prove that they had strictly observed the procedure laid down by Administrative Order No. 160 or the provisions of the New Civil Code on abatement of public nuisance.<sup>89</sup>

In its April 11, 2007 Order, the Regional Trial Court again emphasized the utter lack of such proof from petitioners:<sup>90</sup>

The Court maintains [that] there is no justifiable reason to dissolve the issued preliminary injunction. The fact remains that [petitioners] disregarded the minimum requirements of due process under Administrative Order [No.] 160 when they dismantled [respondent's] banners duly licensed by the local government concerned and covered by a legitimate agreement with MERALCO. No proof was shown by [petitioners] that they had complied with the requirements of [Administrative Order No.] 160 particularly as to the evaluation and certification process prior to the dismantling, or to the creation of a task force, or at least a finding that said banners or [respondent] are nuisances or hazardous. Worse, they jumped right into abatement, skipping initial investigatory stages and the all-important feature that id due process.<sup>91</sup>

The Court of Appeals' assailed December 3, 2007 Resolution drew attention to petitioners' failure to show proof of such compliance.<sup>92</sup> Even now, in their Petition for Review on Certiorari before us, petitioners make no reference whatsoever to satisfying Administrative Order No. 160's, 160-A's, and the Civil Code's procedural requisites.

Even if it were to be assumed that Administrative Order No. 160's and 160-A's procedural requirements completely and impeccably satisfy the standards of due process, it remains that petitioners have not shown that they complied with these administrative mechanisms. Their complete and protracted silence on this compliance is glaring. It would have been easy for

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<sup>89</sup> Id.

<sup>90</sup> Id at 289.

<sup>91</sup> Id.

<sup>92</sup> Id. at 74: "Significantly, the questioned court orders focus on the failure of the petitioners to observe due process, i.e., the procedure outlined in Administrative Orders Nos. 160 and 160-A that were issued by the President."

them to simply state that they have complied with the same instrument from which they are drawing their authority. Petitioners' utter inability to even make any such allegation, let alone to offer proof of compliance with Administrative Order No. 160's and 160-A's due process safeguards is detrimental to their cause.

## V

Petitioners' final bid at securing this Court's favor is through a reference to Republic Act No. 8975.<sup>93</sup> Section 3 of Republic Act No. 8975 provides:

Sec. 3. Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Injunctions and Preliminary Mandatory Injunctions. - No court, except the Supreme Court, shall issue any temporary restraining order, preliminary injunction or preliminary mandatory injunction against the government, or any of its subdivisions, officials or any person or entity, whether public or private, acting under the government's direction, to restrain, prohibit or compel the following acts:

- (a) Acquisition, clearance and development of the right-of-way and/or site or location of any national government project;
- (b) Bidding or awarding of contract/project of the national government as defined under Section 2 hereof;
- (c) Commencement, prosecution, execution, implementation, operation of any such contract or project;
- (d) Termination or rescission of any such contract/project; and
- (e) The undertaking or authorization of any other lawful activity necessary for such contract/project.

This prohibition shall apply in all cases, disputes or controversies instituted by a private party, including but not limited to cases filed by bidders or those claiming to have rights through such bidders involving such contract/project. This prohibition shall not apply when the matter is of extreme urgency involving a constitutional issue, such that unless a temporary restraining order is issued, grave injustice and irreparable injury will arise. The applicant shall file a bond, in an amount to be fixed by the court, which bond shall accrue in favor of the government if the court should finally decide that the applicant was not entitled to the relief sought.

If after due hearing the court finds that the award of the contract is null and void, the court may, if appropriate under the circumstances, award the contract to the qualified and winning bidder or order a rebidding of the

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<sup>93</sup> An Act to Ensure the Expedient Implementation and Completion of Government Infrastructure Projects by Prohibiting Lower Courts from Issuing Temporary Restraining Orders, Preliminary Injunctions or Preliminary Mandatory Injunctions, Providing Penalties for Violations Thereof, and for Other Purposes (2000).

same, without prejudice to any liability that the guilty party may incur under existing laws.

Petitioners claim that Republic Act No. 8975's prohibition applies to their efforts to protect the public's welfare by dismantling billboards.<sup>94</sup>

Republic Act No. 8975 was enacted to "ensure the expeditious and efficient implementation and completion of *government infrastructure projects*,"<sup>95</sup> specifically for the purposes of "avoid[ing] unnecessary increase in construction, maintenance and/or repair costs and to immediately enjoy the social and economic benefits therefrom."<sup>96</sup> Its scope and aims are clear.

Removing or dismantling billboards, banners, and signages cannot qualify as acts relating to the implementation and completion of "government infrastructure projects," or of "national government projects"<sup>97</sup> within the contemplation of Republic Act No. 8975. They do not involve the construction, operation, maintenance, repair, or rehabilitation of structures for public use. Neither do they involve the acquisition, supply, or installation of equipment and materials relating to such structures; nor the reduction of costs or the facilitation of public utility. What they entail are preventive and even confiscatory mechanisms. Moreover, while it is also true that public taking may be a prelude to the completion of facilities for public use (e.g., expropriation for infrastructure projects), petitioners' removal and confiscation here do not serve that specific end. Rather, they serve the overarching interest of public safety.

Petitioners prevented and threatened to prevent respondent from engaging in its cardinal business activity. Their admitted actions and apparent inactions show that the well-defined due process mechanisms outlined by Administrative Order No. 160 and 160-A were not followed. Confronted with acts seemingly tantamount to deprivation of property without due process of law, the Regional Trial Court acted well within its competence when it required petitioners to temporarily desist, pending a more complete and circumspect estimation of the parties' rights.

**WHEREFORE**, the Petition is **DENIED**. The assailed December 3,

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<sup>94</sup> *Rollo*, p. 61.

<sup>95</sup> Rep. Act No. 8975, sec. 1.

<sup>96</sup> *Id.*

<sup>97</sup> The term "national government projects" is defined under Rep. Act No. 8975, sec. 2, as:  
Sec. 2. Definition of Terms. -

(a) "National government projects" shall refer to all current and future national government infrastructure, engineering works and service contracts, including projects undertaken by government owned and- controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the Build-Operate-and-Transfer Law, and other related and necessary activities, such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding.


2007 and May 14, 2008 Resolutions of the Court of Appeals in CA-G.R. SP No. 101420 are **AFFIRMED** without prejudice to the ultimate disposition of Civil Case No. 06-899.

The temporary restraining order dated July 7, 2010 is **LIFTED**.


**SO ORDERED.**

  
**MARVIC M.V.F. LEONEN**  
Associate Justice

WE CONCUR:

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson


  
**ARTURO D. BRION**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

On official leave  
**JOSE CATRAL MENDOZA**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

