



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**THE CITY GOVERNMENT OF
CALOOCAN,**

Petitioner,

G.R. No. 240255

Present:

GESMUNDO, C.J.,
Chairperson,

HERNANDO,
ZALAMEDA,
ROSARIO,* and
MARQUEZ, JJ.

- versus -

**CARMEL DEVELOPMENT
INC.,**

Respondent.

Promulgated:

JAN 25 2023

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DECISION

HERNANDO, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court of the October 20, 2017 Decision² and the June 20, 2018 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP. No. 147019, which partially granted the Petition for *Certiorari*⁴ filed by respondent Carmel Development, Inc. (CDI). The CA declared the April 25, 2016⁵ Order of the Regional Trial Court (RTC), Branch 123, Caloocan City in Civil Case No. C-24255 null and void, lifted the writ of preliminary injunction issued in favor of petitioner City of

* On official leave.

¹ *Rollo*, pp. 9-31.

² *Id.* at 32-41. Penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Japar B. Dimaampao (now a Member of this Court) and Amy C. Lazaro-Javier (now a Member of this Court).

³ *Id.* at 42-43.

⁴ *CA rollo*, pp. 3-26.

⁵ *Rollo*, pp. 137-142. Penned by Judge Remigio M. Escalada, Jr.

Caloocan (the City), and set aside the June 6, 2016 RTC Order⁶ insofar as it concerned the issuance of the writ of preliminary injunction.

The Antecedents

Since October 27, 1958, CDI (then Carmel Farms, Inc.) has been the registered owner of three parcels of land with an aggregate area of 156 hectares in North Caloocan City. Situated here are Barangays 181 and 182, more commonly known as "Pangarap Village," which has a population of around 31,538 people.⁷

On September 14, 1973, then President Ferdinand E. Marcos, in exercise of his emergency powers, issued Presidential Decree No. (PD) 293⁸ with immediate effect. PD 293 declared CDI's titles to the land comprising Pangarap Village and all those derived therefrom null and void and declared the lots open for disposition and sale to the members of the Malacañang Homeowners Association, Inc. (MHAI), the alleged *bona fide* occupants thereof.

Pursuant to the foregoing decree, the subject properties were purchased by and awarded to MHAI members, who were awarded certificates of title thereto and built their houses on the land. As the population in Pangarap Village grew, the national and local governments established public schools, health centers, and a police station, in addition to other essential and typical services provided by local governments (*e.g.*, garbage collection, fumigation, and grass cutting services).⁹

On January 29, 1988, nearly 15 years after the enactment of PD 293, the Court promulgated an *en banc* Decision in the case of *Tuason v. Register of Deeds (Tuason case)*,¹⁰ where PD 293 was declared unconstitutional and void *ab initio* in all its parts. The *Tuason* case had the effect of restoring full ownership over the subject lands to CDI and all those who derived their title from CDI.¹¹

⁶ Id. at 161-168. Penned by Judge Remigio M. Escalada, Jr.

⁷ See the Philippine Statistics Authority 2020 Census of Population and Housing.

⁸ Entitled "CANCELLING THE SALE CERTIFICATES AND/OR TRANSFER CERTIFICATES OF TITLES NUMBERS 62603, 62604, AND 62605, COVERING LOTS 1, 2, AND 3, RESPECTIVELY, PCS-4383, ALL IN THE NAME OF CARMEL FARMS, INC., WHICH IS A CONSOLIDATION AND SUBDIVISION OF LOTS 979, 981, 982, 985, 988, 989, 990, 991-NEW, 1226, 1228, 1230; AND 980-C-2 (LRC PSD-1730), ALL OF TALA ESTATE, CALOOCAN CITY, AND DECLARING THE SAME OPEN FOR DISPOSITION TO THE MALACANANG HOMEOWNERS ASSOCIATION, INC., THE PRESENT OCCUPANTS, PURSUANT TO THE PROVISIONS OF COMMONWEALTH ACT NUMBER 32, AS AMENDED." Signed: September 14, 1973.

⁹ Id.

¹⁰ 241 Phil. 650 (1988).

¹¹ Id. at 663.

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Following the restoration of its title to the land where Pangarap Village is located, CDI has taken steps to reinforce its ownership and to prevent the entry of third persons and informal settlers by installing security measures, such as security booms and road blockades along Gregorio Araneta Avenue, a privately-owned major thoroughfare that is a crucial linkage within and in the immediate peripheries of Pangarap Village.¹²

On January 6, 2016, the City, pursuant to Article 701 of the New Civil Code (the Civil Code), filed a Complaint for Abatement of Nuisance, with Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction¹³ in connection with the security measures installed and operated by CDI at the entrance of and along Gregorio Araneta Avenue. The City filed an Amended Complaint¹⁴ dated January 22, 2016 to submit *Sangguniang Panlungsod* Resolution No. 2429, series of 2016, authorizing the Honorable Mayor of Caloocan to file the abatement of nuisance case.¹⁵

In its Amended Complaint, the City claimed that the road blockades were public nuisances under Art. 694 of the Civil Code, because such blockades endanger the life, health, safety, and welfare of the Pangarap Village residents,¹⁶ and they have hampered the delivery of basic services and facilities to the residents of Pangarap Village.¹⁷ Further to its complaint for the abatement of nuisance, the City prayed for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction to enjoin CDI from closing Gregorio Araneta Avenue to the public and restricting or regulating access to Quirino Avenue through Gregorio Araneta Avenue.¹⁸

In its Answer,¹⁹ CDI prayed for the dismissal of the Amended Complaint and, in support thereof, raised the following affirmative defenses: (1) CDI is the lawful and rightful owner of Gregorio Araneta Avenue, a private road which forms part of the 19,712-square meter lot covered by Transfer Certificate of Title (TCT) No. 62606 (15632) registered in the name of CDI, and CDI therefore has a right to exercise acts of ownership thereon, including the right to install security measures to protect its property from third persons;²⁰ (2) the City has no cause of action against CDI, because the actions sought to be enjoined are a valid exercise of CDI's right of ownership over the subject

¹² Rollo, pp. 138-139.

¹³ CA rollo, pp. 84-100.

¹⁴ Rollo, pp. 44-60.

¹⁵ Id. at 52-58.

¹⁶ Id. at 53.

¹⁷ Id. at 46.

¹⁸ Id. at 58.

¹⁹ Id. at 100-136.

²⁰ Id. at 110; 113-115.

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property;²¹ (3) the instant case is barred by *litis pendentia* and *res judicata*;²² and (4) anent the prayer for a TRO/writ of preliminary injunction, the City failed to present proof of any clear and positive right it has over Gregorio Araneta Avenue.²³ By way of counterclaim, CDI sought payment of damages and attorney's fees.²⁴

Ruling of the Regional Trial Court

In its Order dated April 25, 2016,²⁵ the RTC granted the City's application for a writ of preliminary injunction:

WHEREFORE, in the [sic] light of the foregoing, a writ of preliminary injunction is hereby ISSUED, enjoining defendant Carmel Development, Inc., its subordinates, agents, representatives, and any and all persons acting in its behalf, during the pendency of the main action, from closing and restricting free access to and from Gregorio Araneta Avenue to and from Quirino Avenue to plaintiff and its representatives, functionaries, agents, employees, and any and all persons acting in its behalf, including service and utility providers to its service units duly authorized by plaintiff, and vehicles and other conveyances used by them, to enable the national and city governments to service the needs of its constituents in the area, upon posting by the plaintiff of a bond in the amount of One Hundred Thousand Pesos (P100,000.00), to answer for damages that defendant Carmel Development, Inc. may sustain by reason of the injunctive relief granted should it subsequently be determined that plaintiff was not entitled thereto.

SO ORDERED.²⁶

Following the conclusion of the hearings on the City's application for a writ of preliminary injunction, the RTC found that the City presented sufficient evidence to show that its government mandate to serve its constituents was severely hampered by CDI's road blockades. The City's evidence showed that (1) its fire truck was not allowed to immediately respond to a crisis and was made to wait for around 15 to 20 minutes before the CDI security guards secured approval for its entry; (2) due to entry restrictions, the delivery of health services and medicine is delayed and is further aggravated by CDI's refusal to allow water and electrical utilities providers to conduct maintenance and repair works inside Pangarap Village; and (3) timely police assistance and intervention in case of crime is also impeded by the road blockades.²⁷

²¹ Id. at 110-111.

²² Id. at 123.

²³ Id. at 126.

²⁴ Id. at 133.

²⁵ Id. at 137-142.

²⁶ Id. at 142.

²⁷ Id. at 140.

Even though CDI recovered its title to the subject property, the RTC ruled that it was estopped from denying the possession of and access for the national and city governments, because it did not move to oust them from its property despite the lapse of almost 30 years from the promulgation of *Tuason*.²⁸ The RTC deemed this inaction as acquiescence on the part of CDI of the presence of the frontline units of the national and city governments, which constitutes a self-limitation by CDI on its ownership rights over the property.²⁹

Consequently, the RTC found that the City had shown sufficient evidence of its clear and unmistakable right to the possession of the locations of its service units in Pangarap Village, including the right to unhampered access to these units to enable the City to properly serve its constituents and that there was a paramount necessity to protect such right and prevent serious damage.³⁰ Thus, the RTC issued the writ of preliminary injunction in favor of the City.

Aggrieved, CDI filed a Manifestation with Very Urgent Omnibus Motion for Clarification and Reconsideration³¹ dated May 6, 2016. CDI sought the reconsideration of the RTC's April 26, 2016 Order issuing the writ of preliminary injunction in favor of the City. CDI argued that there was a procedural irregularity when the RTC issued the writ of preliminary injunction without granting the preliminary injunction, subject to the City's compliance with the requirement of posting a bond.³² Further, CDI insisted that both the posting of a bond and the disbursement of public funds in connection with the bond should be authorized pursuant to appropriate resolutions from the *Sangguniang Panlungsod*.³³ Absent such resolutions, CDI argued that the City has not complied with the bond requirements.³⁴

In connection with the substantive aspect of the RTC Order, CDI took exception to the RTC's statement that CDI never moved against the national or local government in recovering and safeguarding its interests in Pangarap Village.³⁵ To support its position, CDI enumerated several cases, the majority of which involved CDI as a party, wherein the courts affirmed CDI's ownership over the subject property or upheld CDI's actions to exclude other parties from its property as a valid exercise of dominion.³⁶ Accordingly, CDI argued that there was no basis to the RTC's ruling that CDI was estopped from unilaterally cutting off access and possession to the City's government facilities in Pangarap Village.³⁷

²⁸ Id.

²⁹ Id. at 140-141.

³⁰ Id. at 141.

³¹ Id. at 143-160.

³² Id. at 150-151.

³³ Id. at 151.

³⁴ Id.

³⁵ Id. at 152-155.

³⁶ Id. at 152-154.

³⁷ Id. at 155.

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Further, CDI assailed the RTC's finding that the City has a clear and unmistakable right to be protected to justify the issuance of the writ of preliminary injunction.³⁸ The City invoked its duty as a local government unit (LGU) to provide basic services and facilities to constituents under Section 17 of Republic Act No. 7160 or the "Local Government Code"³⁹ as legal basis for its right to be allowed free access to Gregorio Araneta Avenue.⁴⁰ CDI posited that the fulfillment of the City's mandate to deliver basic services is circumscribed by the parameters set by law, thus prohibiting the City from imposing its authority upon any private property.⁴¹ According to CDI, such imposition amounted to a taking of private property without due process of law which is an invasion of the constitutional guarantee.⁴² Accordingly, CDI argued that between the City's duty as an LGU to deliver basic facilities and services and CDI's constitutional right to enjoy its property without undue governmental interference, the latter must prevail.⁴³ With the City having no clear and unmistakable right to be protected, CDI prayed that the RTC set aside its April 26, 2016 Order and that it dissolve the writ of preliminary injunction.⁴⁴

The RTC issued its Order dated June 6, 2016,⁴⁵ where it resolved the affirmative defenses CDI raised in its Answer and its motion for reconsideration. The dispositive portion of the foregoing reads:

WHEREFORE, in the (sic) light of the foregoing, the affirmative defenses of lack of cause of action and *litis pendentia* or *res judicata*, alleged by defendant Carmel Development, Inc. in its Answer (with Omnibus Motion), dated March 10, 2016, are hereby DENIED.

Further, the Very Urgent Omnibus Motions for Clarification and Reconsideration, dated May 6, 2016, and the prayer therein for the recall and setting aside of the Order dated April 25, 2016, as well as the prayer for dissolution of the writ of preliminary injunction issued thereunder and to allow defendant Carmel Development, Inc. to post a counter bond, are likewise DENIED.

SO ORDERED.⁴⁶

³⁸ Id.

³⁹ LOCAL GOVERNMENT CODE, Section 17. *Basic Services and Facilities.* —

(a) Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provisions of the basic services and facilities enumerated herein.

⁴⁰ *Rollo*, p. 55.

⁴¹ Id.

⁴² CONSTITUTION, Art. III, Sec. I.

⁴³ *Rollo*, p. 155.

⁴⁴ Id. at 158.

⁴⁵ Id. at 161-168.

⁴⁶ Id. at 168.

In denying the motions for dissolution of the preliminary injunction and allowance to file a counterbond, the RTC found that CDI failed to comply with the requisites of Rule 58, Section 6 of the Rules of Civil Procedure for the dissolution of an injunction—namely, that such motion be accompanied by the affidavit/s of the party or person enjoined containing any allegation that the injunction “would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer.”⁴⁷ The RTC did not consider CDI’s other arguments, as these pertained to the merits of the main action.⁴⁸

CDI elevated the matter to the CA via a Petition for *Certiorari*⁴⁹ under Rule 65 of the Rules of Court.

Ruling of the Court of Appeals

In a Decision dated October 20, 2017,⁵⁰ the CA partially granted the Petition for *Certiorari*:

WHEREFORE, the petition for *certiorari* is **PARTLY GRANTED**. The April 25, 2016 Order of the Regional Trial Court, Branch 123, Caloocan City in Civil Case No. C-24255 is declared **NULL** and **VOID** and the writ of preliminary injunction in favor of the City of Caloocan is **LIFTED**. The June 6, 2016 Order is likewise **ANNULLED** and **SET ASIDE** insofar as the issuance of said writ of preliminary injunction is concerned.

SO ORDERED.⁵¹

The CA did not dwell on the propriety of the RTC’s failure to dismiss the complaint on the basis of CDI’s affirmative defense, due to CDI’s failure to move for the reconsideration of the RTC’s order denying said defenses.⁵² CDI sought reconsideration only of the April 25, 2016 Order granting the City’s application for a writ of preliminary injunction.⁵³ The settled rule is that a motion for reconsideration is a condition *sine qua non* for the filing of a petition for *certiorari*, because its purpose is to grant an opportunity for the court that issued the assailed ruling to correct any actual or perceived error attributed to it by reexamination of the legal and factual circumstances of the case.⁵⁴ The requirement may only be dispensed with for concrete, compelling, and valid reasons, which CDI neglected to provide. Consequently, the CA did not rule on this issue.

⁴⁷ 2019 RULES OF CIVIL PROCEDURE, Rule 58, Section 6.

⁴⁸ *Rollo*, p. 168.

⁴⁹ *CA rollo*, pp. 3-26.

⁵⁰ *Rollo*, pp. 32-41.

⁵¹ *Id.* at 40.

⁵² *Id.* at 37.

⁵³ *Id.*

⁵⁴ *Republic v. Bayao*, 710 Phil. 276, 287 (2013).

However, the CA ruled in CDI's favor when it found that the issuance of the writ of preliminary injunction by the RTC was tainted with grave abuse of discretion amounting to lack or excess of jurisdiction, because the City's right to use privately-owned Gregorio Araneta Avenue was not clear and unmistakable. Being an extraordinary and peremptory remedy that must be used with extreme caution, affecting as it does the respective rights of the parties,⁵⁵ the CA emphasized that a writ of preliminary injunction may only issue when the reason and necessity therefore are clearly established, and only in cases reasonably free of doubt.⁵⁶ As the City's right to use a portion of CDI's property is the subject of the abatement case, the CA found that the very existence of the City's right is disputable.⁵⁷ Thus, in the absence of a clear legal right or a right *in esse* to be protected, the CA ruled that the issuance by the RTC of the injunctive writ was tainted with grave abuse of discretion.⁵⁸

Further, the CA determined that the acts the City sought to enjoin had already become *fait accompli* and that the *status quo* could no longer be restored, because CDI had already consummated the acts complained of when it installed the road blockades to close off Gregorio Araneta Avenue.⁵⁹ Thus, the relief sought by the City could no longer be granted.⁶⁰

For the foregoing reasons, the CA partly granted CDI's Petition for *Certiorari* and lifted the writ of preliminary injunction granted in favor of the City.

The City sought reconsideration of the CA Decision, but the CA affirmed its ruling and denied the motion for reconsideration in its Resolution⁶¹ dated June 20, 2018 after determining that the motion raised arguments that were already considered and resolved in its earlier Decision.

Hence, this Petition for Review on *Certiorari*. The City cited the following grounds as the bases for its petition:

THE COURT OF APPEALS GRAVELY ERRED IN ISSUING THE QUESTIONED DECISION DATED 20 OCTOBER 2017 AND THE RESOLUTION DATED 20 JUNE 2018, AND IN SO DOING, DEPARTED FROM ESTABLISHED RULES AND JURISPRUDENCE, CONSIDERING THAT:

⁵⁵ *Bank of the Philippine Islands v. Hontanosas, Jr.*, 737 Phil 38, 53 (2014).

⁵⁶ *Rollo*, p. 38.

⁵⁷ *Id.* at 38-39.

⁵⁸ *Id.* at 39.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* at 42-43.

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- I. THE TRIAL COURT WAS CORRECT IN ISSUING THE WRIT OF PRELIMINARY INJUNCTION IN FAVOR OF THE CITY.
- II. THE CITY'S POSSESSION OVER A PORTION OF PANGARAP VILLAGE PRECEDED THE *RAMON TUASON* CASE WHICH RESTORED CDI'S OWNERSHIP THERETO, A FACT ADMITTED BY NO LESS THAN CDI.
- III. THE ACTS SOUGHT TO BE ENJOINED BY THE CITY ARE NOT *FAIT ACCOMPLI*, BUT ARE MERELY BUT THREATENED [sic] AND IMPERMANENT. THEREFORE, THESE CAN BE RESTRAINED BY INJUNCTION.⁶²

The issue at the crux of this case is whether the CA erred in dissolving the writ of preliminary injunction issued in favor of the City.

Our Ruling

We resolve to deny the Petition.

The Court defined a writ of preliminary injunction in *Bureau of Customs v. Court of Appeals-Cagayan de Oro Station*:⁶³

A writ of preliminary injunction is a preservative remedy for the protection of substantial rights and interests. It is not a cause of action itself, but a mere provisional remedy adjunct to a main suit. It is granted at any stage of an action or proceeding prior to the judgment or final order, requiring a party or a court, agency or a person to refrain from a particular act or acts; it may also require the performance of a particular act or acts, in which case it shall be known as a preliminary mandatory injunction. It may be granted by the court where the action or proceeding is pending. The purpose of injunction is to prevent threatened or continuous irremediable injury to the parties before their claims can be thoroughly studied, and its sole aim is to preserve the status quo until the merits of the case are fully heard. The issuance of a writ of preliminary injunction is governed by Rule 58 of the Rules of Court.⁶⁴

The essential requisites for the grant of a writ of preliminary injunction are the following:

- (1) the applicant must have a clear and unmistakable right to be protected, that is, a right in *esse*;
- (2) there is a material and substantial invasion of such right;

⁶² Id. at 15-16.

⁶³ G.R. Nos. 192809, 193588, 193590-1, and 201650, April 26, 2021.

⁶⁴ Id., citing *Philippine Charity Sweepstakes Office v. TMA Group of Companies Pty Ltd.*, G.R. Nos. 212143, 225457, & 236888, August 28, 2019.

(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.⁶⁵

Injunctive relief is only available when there is a pressing necessity to avoid injurious consequences which cannot be remedied under any standard pecuniary compensation.⁶⁶ It must be proven that the violation sought to be prevented would result in an irremediable injustice.⁶⁷

The grant or denial of a writ of preliminary injunction rests on the sound discretion of the court taking cognizance over the case since the assessment and evaluation of evidence toward that end involve findings of fact left to the said court for its conclusive determination.⁶⁸ Hence, the exercise of judicial discretion by a court in injunctive matters must not be interfered with except when there is grave abuse of discretion.⁶⁹

Grave abuse of discretion involves a capricious and whimsical exercise of judgment equivalent to lack of jurisdiction, or where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice or personal aversion amounting 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.⁷⁰

Upon review of the records, the Court holds that the appellate court committed no reversible error and sustains its ruling that the issuance by the RTC of the writ of preliminary injunction in favor of the City was tainted with grave abuse of discretion, because the City was not entitled to injunctive relief.

The City does not have a clear and unmistakable right that must be protected against a material and substantial invasion

First and foremost of the evidentiary hurdles that an applicant for a writ of preliminary injunction must overcome is to establish the existence of a clear and unmistakable right to be protected. This is because injunction, which is

⁶⁵ *Bicol Medical Center v. Botor*, 819 Phil. 447, 458 (2017), citing *St. James College of Parañaque v. Equitable PCI Bank*, 641 Phil. 452, 466 (2010).

⁶⁶ *Transfield Philippines, Inc. v. Luzon Hydro Corporation*, 485 Phil. 699, 726 (2004).

⁶⁷ *Bicol Medical Center v. Botor*, *supra* at 457, citing *Philippine National Bank v. Castalcy Technology Corporation*, 684 Phil. 438, 445 (2012).

⁶⁸ *Cahambing v. Espinosa*, 804 Phil. 412, 420-421 (2017), citing *Cortez-Estrada v. Heirs of Samut*, 491 Phil. 458, 473-474 (2005).

⁶⁹ *Id.*

⁷⁰ *Chua v. People*, 821 Phil. 271, 279-280 (2017), citing *Yu v. Reyes-Carpio*, 667 Phil. 474, 481-482 (2011).

characterized as “an extraordinary event, one deemed as a strong arm of equity or a transcendent remedy,”⁷¹ will not issue to protect or enforce contingent, abstract, or future rights.⁷² Injunction will not issue to protect a right not in *esse* and which may never arise, or to restrain an act which does not give rise to a cause of action.⁷³ Thus, before the courts may issue a writ of preliminary injunction, it is essential that the party seeking its issuance must establish the existence of the right to be protected and that such right is actual, clear, and existing.⁷⁴ Further, the invasion of that clear and unmistakable right must be material and substantial.⁷⁵

The quantum of evidence that the applicant must present to prove the existence of such a right is merely *prima facie* evidence, or such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party’s claim or defense and which, if not rebutted or contradicted, will remain sufficient.⁷⁶ Such evidence must clearly show that the applicant’s right exists and that no doubt lingers as to the existence of said right.⁷⁷

Guided by the foregoing standards, the Court rules that the City’s right to be protected from a material and substantial violation by injunction was not sufficiently shown to exist.

The City does not dispute CDI’s claim of ownership over Gregorio Araneta Avenue and the property on which Pangarap Village is situated. That the City lodged the instant abatement of nuisance case is itself an acknowledgement of CDI’s dominion over the subject property. Thus, the City does not base its alleged entitlement to a writ of preliminary injunction on a claim of ownership, but on (1) its right of possession over the government buildings located in Pangarap Village, and (2) its duty pursuant to the General Welfare Clause enshrined in Republic Act No. 7160, otherwise known as the Local Government Code, to wit:

Section 16. General Welfare. - Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of

⁷¹ *Sumifru (Philippines) Corp. v. Spouses Cereño*, 825 Phil. 743, 750 (2018), citing *Liberty Broadcasting Network, Inc. v. Atlocom Wireless System, Inc.*, 762 Phil. 210, 226 (2015).

⁷² *Lerias v. Court of Appeals*, 900 Phil. 289, 299 (2019).

⁷³ *Id.*

⁷⁴ *Bureau of Customs v. Court of Appeals-Cagayan de Oro Station*, *supra*.

⁷⁵ *Id.*

⁷⁶ *Lerias v. Court of Appeals*, *supra* at 299, citing *Bicol Medical Center v. Botor*, *supra* note 65, at 459.

⁷⁷ *Id.* at 299-300.

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culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.⁷⁸

The City claims that the restrictions imposed by CDI on its ingress and egress through Gregorio Araneta Avenue have unduly and unreasonably hampered the City's access to Pangarap Village, thus depriving it of its possession of the government offices and facilities located there and preventing it from exercising its police powers and accomplishing its duty under the General Welfare Clause.⁷⁹

CDI maintains that the City's position that it has been deprived of possessory rights over the government offices and facilities is a new concoction that the City raised for the first time in its Motion for Reconsideration before the CA.⁸⁰ CDI argues that the City's claim of possession is incompatible with its original cause of action,⁸¹ which was abatement of nuisance, and, in any case, can no longer be raised at this late stage of the proceedings.⁸² Despite maintaining this position, CDI addresses the substantive aspect of the City's arguments by pointing out that the General Welfare Clause does not give the LGU unbridled discretion on how to fulfill this mandate and that the City remains bound by the parameters set by law.⁸³ Thus, CDI argues that any attempts by the City to unilaterally impose its will and authority on privately owned property amounts to a taking of property without due process of law, which is prohibited under the Constitution.⁸⁴

Preliminarily, although the issue of possession was not raised by the City in its Complaint, the RTC discussed and ruled upon this matter in its Orders dated June 6, 2016⁸⁵ and April 25, 2016.⁸⁶ Once a court acquires jurisdiction over a case, it has wide discretion to look upon matters which, although not raised as an issue, would give life and meaning to the law.⁸⁷ Consequently, CDI cannot claim that the City's claim of possession is a new matter brought up only on appeal.

⁷⁸ LOCAL GOVERNMENT CODE, Sec. 16.

⁷⁹ *Rollo*, p. 359.

⁸⁰ *Id.* at 325-326.

⁸¹ *Id.* at 326-328.

⁸² *Id.* at 327-328.

⁸³ *Id.* at 128.

⁸⁴ *Id.*

⁸⁵ *Id.* at 161-168.

⁸⁶ *Id.* at 137-142.

⁸⁷ *Logronio v. Taleseo*, 370 Phil. 907, 917-918 (1999).

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Nevertheless, the Court agrees with CDI on the substantive aspects of the issues raised.

On the basis of the Court's ruling in *Malonesio v. Jizmundo*,⁸⁸ as cited by the City, the property on which the government facilities have been erected has been devoted to public use, thus preventing CDI from recovering possession of the same and entitling it only to just compensation for the value thereof.⁸⁹ However, while the City does have the right to possess the government facilities and structures in Pangarap Village, it has failed to prove that it has been unduly deprived of possession by CDI, because it has been shown that there are other access routes leading to Pangarap Village.⁹⁰ While Gregorio Araneta Avenue is the most convenient and direct route to Pangarap Village, both the City and CDI have acknowledged the existence of backroads and other points of ingress to and egress from Pangarap Village.⁹¹

Further, CDI has averred that it has not prevented the City from performing its duties within the subject property, as it has allowed the entry of the police and fire personnel and other government vehicles after the latter have secured permission or clearance from CDI.⁹² This is supported by the allegations of the City in its Complaint and the statements of its witnesses provided as evidence.⁹³ In its Petition for Review, the City even admits that "CDI has not totally prevented the City access inside Pangarap Village, but merely threatened to limit, restrain or regulate the City's access in and to Pangarap Village."⁹⁴ That CDI has also granted access to the City was also admitted in the Petition for Review, though the City described such access regulation as "intermitted (sic) rigid, restrictive, and inconvenient."⁹⁵

Thus, despite the relative inconvenience to the City and its representatives in accessing Pangarap Village, the City cannot claim that there has been a material and substantial invasion of its right to possess the government facilities and buildings located in Pangarap Village, as it has not been unduly and unreasonably deprived of the means to access the same. It must be emphasized that the City has no right to access or possess Gregorio Araneta Avenue itself, as the same remains a private road, which, despite the use of the general public permitted by CDI, is not stripped of its private character and converted into public property.⁹⁶

⁸⁸ 793 Phil. 723 (2016).

⁸⁹ Id. at 733.

⁹⁰ See *rollo*, p. 82.

⁹¹ Id. at 46, 328.

⁹² Id. at 130.

⁹³ See id. at 26, 47, 50, 85, 119, 352.

⁹⁴ Id. at 26.

⁹⁵ Id.

⁹⁶ *Woodridge School, Inc. v. ARB Construction Co., Inc.*, 545 Phil. 83, 89 (2007).

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Anent the City's invocation of the General Welfare Clause to justify the issuance of a writ of preliminary injunction, We deem the same to be without merit.

First, the General Welfare Clause, being a delegation in statutory form of the police power of the State to LGUs,⁹⁷ is exercised by the LGU mainly through its legislative body through the enactment of ordinances.⁹⁸ The General Welfare Clause has two branches: first, known as the "*general legislative power*," is the authority to enact ordinances and make regulations not repugnant to law, as may be necessary to carry into effect and discharge the powers and duties conferred upon the municipal council by law;⁹⁹ second, known as the "*police power proper*," is the authority to enact ordinances as may be necessary and proper for the health and safety, prosperity, morals, peace, good order, comfort, and convenience of the municipality and its inhabitants, and for the protection of their property.¹⁰⁰

Applying the foregoing principles to the facts of the case at bar, the City's basis for its invocation of the General Welfare Clause is doubtful at best. There is no ordinance, regulation, or other issuance from the City's legislative body involved, or, indeed, any exercise of legislative power by the LGU. The City cannot claim that it has been prevented from fulfilling its duty under the General Welfare Clause when it has not exercised its power to enact ordinances pursuant to such duty. This ruling is in accordance with the principle that, since the police power of the local government units flows from the express delegation of the power by Congress, its exercise is to be construed *in strictissimi juris*, thus any doubt or ambiguity arising out of the terms used in granting the power should be construed against the local legislative units.¹⁰¹

Consequently, the City's argument that it is entitled to a writ of preliminary injunction on the basis of its mandate under the General Welfare Clause is without merit, as the applicability of the General Welfare Clause to the case at bar is not clear and unmistakable.

Second, even assuming that the General Welfare Clause may be invoked even without the issuance of an ordinance or other regulation, the power of the local government under the General Welfare Clause is not meant to be an "invincible authority."¹⁰² The General Welfare Clause is not available as a source of power for the taking of private property in this case because it refers

⁹⁷ *Batangas CATV, Inc. v. Court of Appeals*, 482 Phil. 544, 561 (2004), citing *US v. Salaveria*, 39 Phil. 102, 109 (1918).

⁹⁸ *Cruz v. Pandacan Hiker's Club, Inc.*, 776 Phil. 336, 348 (2016).

⁹⁹ *Rural Bank of Makati Inc. v. Municipality of Makati*, 477 Phil. 425, 438 (2004).

¹⁰⁰ *Id.*

¹⁰¹ *Mosqueda v. Pilipino Banana Growers & Exporters Association, Inc.*, 793 Phil. 17, 85 (2016).

¹⁰² *Id.*

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to “the power of promoting the public welfare by restraining and regulating the use of liberty and property.”¹⁰³

While the City has a duty to its inhabitants under the General Welfare Clause, it does not have *carte blanche* to fulfill its mandate in a manner that violates the parameters set by law, which include the rights of private property owners. The City cannot, under the guise of performing its duty, disregard CDI’s rights over its property, which include the right to regulate and restrict entry and access thereto and the right to exclude any person from the enjoyment and disposal thereof.¹⁰⁴

In the case of *Abellana, Sr. v. Court of Appeals*,¹⁰⁵ the Court emphasized that road lots of a private subdivision are private property, and that the LGU must first acquire such road lots by donation, purchase, or expropriation before the same can be used as a public road.¹⁰⁶ While the property owned by CDI is not a subdivision, the Court applies the foregoing ruling to the instant case by analogy. Accordingly, while Gregorio Araneta Avenue may have been previously open for public use, the same remains a private road under the ownership and control of CDI, unless and until the same has been validly acquired by the LGU. Any other conclusion would amount to an encroachment of CDI’s ownership and serves as an undue limitation on CDI’s exercise of the concomitant rights that arise as an attribute of such ownership, including the right to exclude persons from the subject property. Thus, the City may not compel CDI to grant free access to the City’s officials and representatives absent a clear and unmistakable right thereto, which, as previously discussed, the City failed to establish.

The RTC’s grant of the writ of preliminary injunction exceeds the scope of the remedy as it does not preserve the *status quo* and changes the relations between the City and CDI

Preliminary injunction, being a preservative remedy, should not create new relations between the parties, but must only maintain the *status quo* until the merits of the case are fully heard.¹⁰⁷ *Status quo* is defined as “the last actual,

¹⁰³ *City Government of Quezon City v. Ericta*, 207 Phil. 648, 652 (1983).

¹⁰⁴ CIVIL CODE, Article 429. The owner or lawful possessor of a thing has the right to exclude any person from the enjoyment and disposal thereof. For this purpose, he may use such force as may be reasonably necessary to repel or prevent an actual or threatened unlawful physical invasion or usurpation of his property.

¹⁰⁵ 284 Phil. 449 (1992).

¹⁰⁶ *Id.* at 453.

¹⁰⁷ *Spouses Laus v. Optimum Security Services, Inc.*, 780 Phil. 412, 421 (2016), citing *Los Baños Rural Bank, Inc. v. Africa*, 433 Phil. 930, 945 (2002).

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peaceable, and uncontested status which preceded the actual controversy, or that existing at the time of the filing of the case.”¹⁰⁸ In *Spouses Laus v. Optimum Security Services, Inc.*,¹⁰⁹ the Court clearly defined the scope of a preliminary injunction:

[T]he Court has repeatedly held that when the act sought to be enjoined has become *fait accompli*, the prayer for preliminary injunction should be denied. Indeed, when the events sought to be prevented by injunction or prohibition had already happened, nothing more could be enjoined or prohibited. An injunction will not issue to restrain the performance of an act already done.¹¹⁰

In this case, at the time of the filing of the Complaint on January 6, 2016, CDI had already long since established and manned the road blockade along Gregorio Araneta Avenue. In fact, the City alleged that the road blockade was established as early as 2000.¹¹¹ With an intervening period of more than two decades since the dispute began, it is evident that the situation can no longer be restored to the last actual, peaceable, and uncontested situation, and that the *status quo* in this case is that existing at the time the case was filed. Thus, rather than preserving the *status quo*, the issuance of the writ of preliminary injunction by the RTC would instead have the effect of altering the relations between the City and CDI and prohibiting acts that have long since been consummated, which exceeds the purpose of a preliminary injunction.

In conclusion, the CA did not commit any reversible error when it reversed the RTC’s Order granting the City’s prayer for the issuance of a writ of preliminary injunction, because (1) the City failed to establish the requisites of a writ of preliminary injunction, particularly the existence of a clear and unmistakable right to be protected and the material and substantial invasion thereof; and (2) the grant of the preliminary injunction prayed for by the City exceeds the scope of a preliminary injunction, because it has the effect of changing the *status quo* instead of preserving it.

WHEREFORE, petitioner City Government of Caloocan’s Petition for Review on *Certiorari* is **DENIED**. The Court of Appeals’ October 20, 2017 Decision and the June 20, 2018 Resolution in CA-G.R. SP. No. 147019 are **AFFIRMED**.

¹⁰⁸ *Sumifru (Philippines) Corp. v. Spouses Cereño*, supra note 71 at 752, citing *Overseas Workers Welfare Administration v. Atty. Chavez*, 551 Phil. 890, 911-912 (2007).

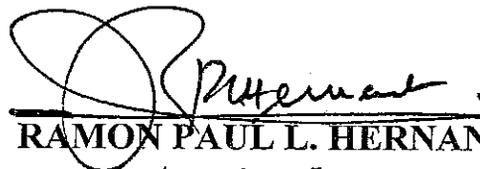
¹⁰⁹ 780 Phil. 412 (2016).

¹¹⁰ Id. at 421. Citations omitted.

¹¹¹ *Rollo*, p. 13.

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SO ORDERED.

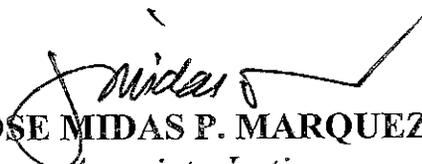

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson


RODIL V. ZALAMEDA
Associate Justice

On official leave.
RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


ALEXANDER G. GESMUNDO
Chief Justice