

REPUBLIC OF THE PHILIPPINES  
COURT OF APPEALS  
Manila

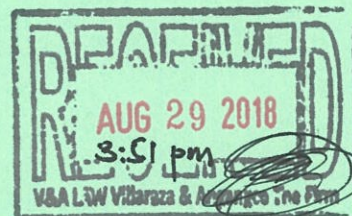
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IPM CONSTRUCTION &  
DEVELOPMENT CORPORATION,  
Petitioner,

- versus -

CA-G.R. SP No. 156340

LAGUNA LAKE DEVELOPMENT  
AUTHORITY, represented by its  
General Manager JAIME C. MEDINA  
and its PUBLIC HEARING COMMITTEE  
consisting of ATTY. ZENAIDA R. LAPUZ,  
AGM GENEROSO M. DUNGO, ENGR.  
EMITERO C. HERNANDEZ,  
Respondents.



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NOTICE OF RESOLUTION

August 29, 2018

Sir/Madam :

Please take notice that on August 29, 2018\*, a RESOLUTION, copy attached, was rendered by the SPECIAL FOURTEENTH DIVISION, Court of Appeals, in the above-entitled case, the original of which is now on file in this Office.

You are hereby required to inform this Court within five ( 5 ) days from receipt hereof of the date you received the Notice, with copy of the Resolution.

Very truly yours,

ATTY. VENUS B. MACLAYA-TALOMA  
Division Clerk of Court

COPY FURNISHED: Personal

VILLARAZA & ANGANGCO  
V & A Law Center  
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(counsel for petitioner)

ATTY. ZENAIDA R. LAPUZ  
AGM GENEROSO M. DUNGO  
ENGR. EMITERO C. HERNANDEZ  
JAIME C. MEDINA  
Laguna Lake Development Authority  
LLDA Office, 2<sup>nd</sup> Floor, LLDA Green Bldg.,  
National Ecology Center, East Avenue,  
Diliman, 1101 Quezon City  
(respondents)

OFFICE OF THE SOLICITOR GENERAL  
134 Amorsolo St., Legaspi Village  
1229 Makati City  
(counsel for respondent LLDA)

/ann

\*10:20 am. (time of receipt)

*Please NOTIFY the Court of any change in your address*

REPUBLIC OF THE PHILIPPINES  
COURT OF APPEALS  
Manila

SPECIAL FOURTEENTH (14<sup>th</sup>) DIVISION

IPM CONSTRUCTION & CA-G.R. SP No. 156340  
DEVELOPMENT  
CORPORATION,  
Petitioner,

- versus -

Members:



LAGUNA LAKE BALTAZAR-PADILLA, P. J.,  
DEVELOPMENT AUTHORITY, Chairperson  
Represented by its General PAREDES, V. I. A., &  
Manager JAIME C. MEDINA \*LEGASPI, G. F. D., JJ.  
and its PUBLIC HEARING  
COMMITTEE consisting of  
ATTY. ZENAIDA R. LAPUZ,  
AGM GENEROSO M. DUNGO,  
ENGR. EMITERO C.  
HERNANDEZ,  
Respondents.

Promulgated:

29 AUG 2018

h.

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**RESOLUTION**

CERTIFIED TRUE COPY:

BALTAZAR-PADILLA, P., J:

ATTY. VENUS B. MACLAYA-TALOMA  
Division Clerk of Court

At hand is IPM Construction & Development Corporation's (IPM, for brevity) application for the issuance of temporary restraining order and/or writ of preliminary injunction and writ of mandatory injunction which seeks to order Laguna Lake Development Authority (hereafter referred as LLDA) to return possession of its leased property and to enjoin it from interfering, evicting and dispossessing and intruding with the property rights of IPM over the same.

The present controversy emanated from the Cease and Desist Order (CDO) dated June 13, 2018 issued by LLDA directing IPM to cease and desist from doing illegal reclamation and backfilling activities and to stop all its operations.

The facts of this case reveal that on June 27, 2017, the City of Taguig and IPM which is engaged in waste management, entered into a Service

\* Acting Junior Member, per Office Order No. 392-18-RFB, dated August 20, 2018.

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Agreement for the Integrated System Management – Collection Disposal of Solid Waste for the period covering July 2, 2017 to December 31, 2017. It was stipulated that IPM should provide management and maintenance of a Materials Recovery Facility in the premises. Notably, IPM and one Nora Ysagun executed a lease agreement covering a parcel of land consisting of 22 hectares situated along the C6 Highway in Taguig City. It is used as Transfer Station pursuant to IPM's contract with the City of Taguig and as an office space for the different aspects of its operations, namely, accounting, dispatching, security, and as a motor pool.

The assailed June 13, 2018 CDO is an offshoot of an *Ex-Parte* Order dated September 7, 2017 ordering/directing IPM to show cause why no cease and desist order should issue for violation of Republic Act No. 4850. As allegedly found by LLDA, IPM is a stockyard with garbage pile and an office, without the necessary clearance or permit along the shoreland area. LLDA opined that it has the exclusive jurisdiction to issue new permit for the use of the lake waters for any projects or activities in or affecting the Laguna de Bay. Via a letter, IPM denied that it was dumping garbage in the leased area and pointed out that it was merely using the same as a Transfer Station where contents of garbage trucks are transferred to bigger trucks to be immediately transported to designated landfill. It further claimed that no backfilling and reclamation activities were conducted therein. Unconvinced, LLDA issued a Cease and Desist Order dated December 22, 2017 directing the discontinuance of the illegal dumping of waste materials/garbage and further conduct of reclamation activities.

IPM moved for the reconsideration of the December 22, 2017 CDO essentially arguing that LLDA has no jurisdiction considering that the leased parcel of land is not part of the shoreland area as it has an average annual elevation exceeding 12.50 meters, therefore, not part of the Laguna Lake or Laguna de Bay Lakeshore area. It also denied that it is illegally dumping waste materials or garbage in the area or conducting backfilling or reclamation activities with the use of the garbage.

On February 22, 2018, LLDA issued a Resolution denying IPM's motion. Thereafter, IPM appealed the Resolution to the Office of the President. Despite the pendency of the appeal, LLDA issued the assailed CDO dated June 13, 2018 based on an inspection report that IPM disregarded the December 22, 2017 CDO and had continued its backfilling activity for more or less 37 hectares of the shoreland of Laguna Lake. Consequently, LLDA seized control of the subject leased property and prohibited IPM personnel from entering and exiting the premises without LLDA's permission.

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In its resort to the present auxiliary remedy seeking to order LLDA to return possession of the leased property to it and to enjoin LLDA from interfering, evicting and dispossessing and intruding with its property rights over the said lot, IPM reiterates its allegations in its reply letter to LLDA and motion for reconsideration submitted before it. It further claims that it is prejudiced and is continuously suffering irreparable damage by the continued possession and control of LLDA of the aforementioned property. It asserts that the subject land is used as IPM's Logistics Hub and it is effectively deprived of the use of the same for the conduct of its lawful business. The confiscation did not only affect the supposed illegal Transfer Station but also its entire legitimate business operations.

On its part, LLDA counter-argues that it has the authority to order the closure of the subject property invoking Section 31 in relation to Section 35 of LLDA Resolution No. 33, Series of 1996. It likewise contends that the closure of the disputed lot is nothing short of what is necessary to minimize the damage and pollution that IPM had caused and might have continued to cause had the closure not been implemented.

It further maintains that the subject area falls below the 12.50 meters elevation. This is evident from the LLDA-SMD memorandum dated December 18, 2017. In the alternative, even if the area is above the said annual average elevation, the fact that garbage or waste material enters the said premises necessarily makes the same fall within the jurisdiction of LLDA. Hence, it is only proper to issue *Ex-Parte* CDOs to stop the continuous discharge of pollutive and untreated effluents into the rivers and other inland waters of the country.

The issuance of an injunctive relief is in order.

The sole purpose of a preliminary injunction is to preserve the *status quo* until the merits of the main case can be heard.<sup>1</sup> The *status quo* sought to be preserved by a preliminary injunction is the last actual, peaceable, and uncontested situation which precedes a controversy. The *status quo* should be existing *ante litem motam*, or at the time of the filing of the case. For this reason, a preliminary injunction should not establish new relations between the parties, but merely maintain or re-establish the pre-existing relationship between them.<sup>2</sup>

Section 3, Rule 58 of the Rules of Court sets forth the instances when a writ of preliminary injunction may issue:

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<sup>1</sup> Primo Co, Sr., et al. v. The Philippine Canine Club, Inc., G.R. No. 190112, April 22, 2015.

<sup>2</sup> Maunlad Homes, Inc., et al., v. Union Bank of the Philippines, et al., G.R. No. 179898, December 23, 2008 citing Bustamante v. Court of Appeals, G.R. No. 126371, April 17, 2002.

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*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 nonperformance 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.

Jurisprudence likewise dictates that the following requisites must be proven before a writ of preliminary injunction may be granted, to wit: (1) the existence of a clear and unmistakable right that must be protected, and (2) an urgent and paramount necessity for the writ to prevent serious damage. Indubitably, the Supreme Court has likewise stressed that the very foundation of the jurisdiction to issue a writ of injunction rests in the existence of a cause of action and in the probability of irreparable injury, inadequacy of pecuniary compensation and the prevention of multiplicity of suits. *Sine dubio*, the grant or denial of a writ of preliminary injunction in a pending case rests in the sound discretion of the court taking cognizance of the case since the assessment and evaluation of evidence towards that end involve findings of facts left to the said court for its conclusive determination. 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.<sup>3</sup>

Verily, the *status quo* in the present controversy is the last actual, peaceable, and uncontested situation which precedes the case, *i.e.*, prior to the seizure of the subject parcel of land by LLDA thereby dispossessing IPM of its enjoyment, more particularly its right to conduct its lawful business operations thereon.

It should be emphasized that the subject parcel of land is leased by IPM to serve not only as a Transfer Station pursuant to its contract with the City of Taguig but also as an office for the conduct of its business. As an undisputed lessee of the said lot, IPM has a clear and unmistakable right to the use, enjoyment and possession thereof. As lawful possessor, IPM is entitled to be protected in its possession of the said property so much so that

<sup>3</sup> Philippine National Bank v. RJ Ventures Realty & Development Corporation, et al., G.R. No. 164548, September 27, 2006

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any disturbance thereof warrants the issuance of injunctive writ in its favor.<sup>4</sup> The take-over of LLDA of the property by virtue of the June 13, 2018 CDO effectively deprived IPM of its right to possess and use the same for its lawful business operations. IPM's eviction therefrom also prevented it to withdraw any of its equipments within the premises as LLDA's prior approval to enter the same is required. It was also claimed that LLDA appears to be utilizing the lot as its own headquarters.

Whereas, LLDA's possession of the same property is put in issue in this case by IPM. Whether or not the LLDA has the right, authority and jurisdiction to take over possession of the said premises is still to be threshed out in this petition.

Moreover, the bedrock of the arguments in the petition is focused on the propriety of the issuance of the June 13, 2018 CDO and the seizure/take-over by LLDA of the subject property. IPM questions the jurisdiction of LLDA considering that the property in question is titled under the Torrens system, thus, presumed to be alienable and disposable land of the public domain. IPM argues that even if the property is a shoreland as insisted by LLDA, ergo, should not have been titled in the name of a private party, the validity of a Torrens title cannot be attacked collaterally. A suit for reversion must first be filed by the Republic of the Philippines. Equally raised by IPM is the issue on whether the assailed CDO carries with it the authority to take-over IPM's Logistics Hub. The Court notes that, essentially, these are the same arguments advanced by IPM in its application for injunctive writ. For this reason, WE find it more imperative to grant the injunctive relief prayed for, in order not to render ineffectual any decision that this Court will render on the main petition.

The various issues raised in the petition involving the issuance of the subject CDO are yet to be passed upon in the main case. Thus, it is more judicious to order the discontinuance of LLDA's seizure/possession of the subject property at this stage of the proceeding.

Clearly, there is a pressing necessity for the issuance of an injunctive writ as IPM stands to suffer material and substantial injury from LLDA's continuous deprivation of its right to use and possess the property and to have unimpeded access to all its equipments therein which adversely affects the conduct of its legitimate business operations. Temporary relief must be accorded IPM pending disposition of the main controversy.

**WHEREFORE**, for the purpose of restoring the *status quo* existing prior to the extant legal controversy to prevent any irreparable damage that IPM Construction & Development Corporation stands to suffer and to

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<sup>4</sup> Semiara Coal Corporation v. HGL Development Corporation, et al., G.R. No. 166854

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prevent any decision that may be rendered herein from becoming moot, academic and ineffectual, WE RESOLVE to **GRANT** a **WRIT OF PRELIMINARY MANDATORY INJUNCTION** and a **WRIT OF PRELIMINARY PROHIBITORY INJUNCTION**.

Let a **WRIT OF PRELIMINARY MANDATORY INJUNCTION** be issued **DIRECTING** respondent LLDA and/or any of its officers, representatives, agents and any other person/agency assisting them or acting for and in their behalf to immediately turn over possession of the subject leased property to IPM or its agents. A **WRIT OF PRELIMINARY PROHIBITORY INJUNCTION** must also be issued **DIRECTING** respondent LLDA and/or any of its officers, representatives, agents and any other person/agency assisting them or acting for and in their behalf to **CEASE and DESIST** from interfering, evicting, dispossessing and intruding with IPM's rights over the aforesaid property.

The injunctive writ shall issue upon filing by IPM of cash bond or approval of surety bond in favor of respondents in the amount of THREE HUNDRED THOUSAND PESOS (P300,000.00) which shall answer for whatever damages the latter may sustain by reason of the injunction, if this Court should eventually decide that IPM is not entitled thereto.

The writ shall be effective pending decision in this case unless earlier terminated by this Court.

The parties are directed to file their respective memoranda within 15 days from notice. Thereafter, the main petition shall be considered submitted for decision.

**SO ORDERED.**

**ORIGINAL SIGNED**

**PRISCILLA J. BALTAZAR-PADILLA**  
Associate Justice

WE CONCUR:

**ORIGINAL SIGNED**

**VICTORIA ISABEL A. PAREDES**  
Associate Justice

**GERMANO FRANCISCO D. LEGASPI**  
Associate Justice