

Republic of the Philippines

**SUPREME COURT**

Manila

FIRST DIVISION

G.R. No. 145328 March 23, 2006

**EDUARDO F. HERNANDEZ, MA. ENCARBACION R. LEGASPI, JAIME BLANCO, JR., ENRIQUE BELO, CARLOS VIAPLANA, CARL FURER, VIVENCIO TINIO, MICHAEL BRIGGS, ROSA CARAM, FAUSTO PREYSLER, ROBERT KUA, GEORGE LEE, GUILLERMO LUCHANGCO, PETER DEE, LUISA MARQUEZ, ANGELITA LILLES, JUAN CARLOS, HOMER GO, AMADEO VALENZUELA, EMILIO CHING, ANTONIO CHAN, MURLI SABNANI, MARCOS ROCES, RAYMUNDO FELICIANO, NORMA GAFFUD, ALF HOLST, LOURDES P. ROQUE, MANUEL DY, RAUL FERNANDEZ, VICTORIA TENGCO, CHI MO CHENG, BARANGAY DASMARIÑAS, and HON. FRANCISCO B. IBAY, petitioners**

vs.

**NATIONAL POWER CORPORATION, respondent**

**D E C I S I O N**

**CHICO-NAZARIO, J.:**

Although Presidential Decree No. 1818 prohibits any court from issuing injunctions in cases involving infrastructure projects, the prohibition extends only to the issuance of injunctions or restraining orders against administrative acts in controversies involving facts or the exercise of discretion in technical cases. On issues clearly outside this dimension and involving questions of law, this Court declared that courts could not be prevented from exercising their power to restrain or prohibit administrative acts.<sup>1</sup> In such cases, let the hammer fall and let it fall hard.

With health risks linked to exposure to electromagnetic radiation as their battle cry, petitioners, all residents of Dasmariñas Village, are clamoring for the reversal of the decision<sup>2</sup> dated 3 May 2000 of the Court of Appeals in CA-G.R. SP No. 57849 as well as the resolution dated 27 September 2000, denying their motion for reconsideration.

The assailed decision<sup>3</sup> of the Court of Appeals reversed the order of the Regional Trial Court of Makati, issuing a writ of preliminary injunction against respondent National Power Corporation (NAPOCOR) to stay the latter from energizing and transmitting high voltage electric current through its cables erected from Sucat, Parañaque to Araneta Ave., Quezon City.

But, first, the facts:

Sometime in 1996, NAPOCOR began the construction of 29 decagon-shaped steel poles or towers with a height of 53.4 meters to support overhead high tension cables in connection with its 230 Kilovolt Sucat-Araneta-Balintawak Power Transmission Project. Said transmission line passes through the Sergio Osmeña, Sr. Highway (South Superhighway), the perimeter of Fort Bonifacio, and Dasmariñas Village proximate to Tamarind Road, where petitioners' homes are.

Said project later proved to be petitioners' bane of existence.

Alarmed by the sight of the towering steel towers, petitioners scoured the internet on the possible adverse effects that such a structure could cause to their health and well-being. Petitioners got hold of published articles and studies linking the incidence of a fecund of illnesses to exposure to electromagnetic fields. These illnesses range from cancer to leukemia.

Petitioners left no stones unturned to address their malady. They aired this growing concern to the NAPOCOR, which conducted a series of meetings with them.

NAPOCOR received flak from Representative Francis Joseph G. Escudero, who in his Privilege Speech dated 10 May 1999, denounced the cavalier manner with which Napocor ignored safety and consultation requirements in the questioned project.

Petitioners brought their woes to the attention of Rep. Arnulfo Fuentesbella, Chairman of the House Committee on Energy, wherein NAPOCOR was asked to shed light on the petitioners' problem. In a letter dated 8 November 1999, Napocor President Federico Puno stated that NAPOCOR was still in the process of coming up with a "win-win" solution to the concerns of the Dasmariñas Village and Forbes Park residents.<sup>4</sup>

In a letter dated 10 August 1999 addressed to Congressman Arnulfo P. Fuentesbella, NAPOCOR's President wrote:

We have discussed the matter with the Dasmariñas and Forbes residents and we have come up with four (4) options on how to address the problem, to wit:

#### Option Cost

Option 1: Transfer the line to Lawton Avenue ₱ 111.84 million  
(proposal of Dasmariñas/Forbes)

Option 2: Maintain 12 meters distance along ₱ 77.60 million the village

Option 3: Construct an underground line ₱ 482.00 million

Option 4: Reroute along C-5 and South Luzon ₱ 1,018.83 million

Expressway (combination of overhead and underground)<sup>5</sup>

Negotiations between petitioners and the NAPOCOR reached an impasse, with petitioners vying for the relocation of the transmission lines to Fort Bonifacio on one hand, and the NAPOCOR insisting on a 12-meter easement widening, on the other.<sup>6</sup>

Thus, petitioners, on 9 March 2000 filed a Complaint<sup>7</sup> for Damages with Prayer for the Issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction against NAPOCOR. Harping on the hazardous effects of exposure to electromagnetic radiation to the health and safety to themselves and their families, petitioners, through the instant case, sought what they had failed to achieve through amicable means with NAPOCOR and prayed, inter alia, for damages and the relocation of the transmission lines to Lawton Avenue, Fort Bonifacio.

On 13 March 2000, Judge Francisco B. Ibay issued an order<sup>8</sup> in Civil Case No. 00-352, which temporarily restrained the respondent from energizing and transmitting high voltage electric current through the said project. The pertinent portion of the said order reads:

Acting on the plaintiffs' "Urgent Omnibus Motion," it appearing that the subject area will be energized by midnight tonight based on a report taken from Representative Joker P. Arroyo by plaintiffs' counsel, so as not to render moot and academic the instant case, as prayed for, defendant National Power Corporation is ordered to maintain the status quo and/or be enjoined from energizing and transmitting high voltage electric current through its cables for forty eight (48) hours starting 4 o'clock in the afternoon today and ending 4 o'clock in the afternoon of 15 March 2000.<sup>9</sup>

By order<sup>10</sup> of 15 March 2000, the trial court extended the restraining order for 18 more days.

NAPOCOR filed a Petition for Certiorari with Prayer for Temporary Restraining Order and Preliminary Injunction with the Court of Appeals assailing the above order by the trial court. Alluding to Presidential Decree No. 1818 (1981), *"Prohibiting Courts from Issuing Restraining Orders or Preliminary Injunctions in Cases Involving Infrastructure and Natural Resource Development Projects of, and Public Utilities Operated by, the Government,"* particularly Sec. 1, NAPOCOR stalwartly sought the dismissal of the case on the ground of lack jurisdiction. Presidential Decree No. 1818 provides:

Section 1. No Court in the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction or preliminary mandatory injunction in any case, dispute, or controversy involving an infrastructure project, or a mining, fishery, forest or other natural resource development project of the government, or any public utility operated by the government, including among other public utilities for transport of the goods or commodities, stevedoring and arrastre contracts, to prohibit any person or persons, entity or government official from proceeding with or continuing the execution or

implementation of any such project, or the operation of such public utility or pursuing any lawful activity necessary for such execution, implementation or operation.

In the interregnum, by order dated 3 April 2000, the trial court ordered the issuance of a writ of preliminary injunction against NAPOCOR.<sup>11</sup> The trial court articulated that an injunction was necessary to stay respondent NAPOCOR's activation of its power lines due to the possible health risks posed to the petitioners. Asserting its jurisdiction over the case, the trial court was of the view that Presidential Decree No. 1818 and jurisprudence proscribing injunctions against infrastructure projects do not find application in the case at bar because of the health risks involved.

The trial court, thus, enjoined the NAPOCOR from further preparing and installing high voltage cables to the steel pylons erected near petitioners' homes and from energizing and transmitting high voltage electric current through said cables while the case is pending final adjudication, upon posting of the bond amounting to ₱5,000,000.00 executed to the effect that petitioners will pay all the damages the NAPOCOR may sustain by reason of the injunction if the Court should finally decide that the petitioners are not entitled thereto.<sup>12</sup>

In light of the foregoing order of the trial court, the petition which NAPOCOR filed with the Court of Appeals was later amended to include the prayer for the nullification and injunction of the Order dated 3 April 2000 of the trial court.

In the challenged decision of 3 May 2000, the Court of Appeals reversed the trial court's order, with the following fallo:

WHEREFORE, premises considered, the instant petition for certiorari is hereby GRANTED. The assailed orders of the respondent court, dated March 13, 2000 and April 3, 2000, are hereby REVERSED and SET ASIDE.<sup>13</sup>

In the Court of Appeals' rationale, the proscription on injunctions against infrastructure projects of the government is clearly mandated by the above-quoted Section 1 of Presidential Decree No. 1818, as reiterated by the Supreme Court in its Circulars No. 2-91 and No. 13-93, dated 15 March 1991 and 5 March 1993, respectively.

As their motion for reconsideration was met with similar lack of success, petitioners, in a last attempt at vindication, filed the present petition for review on the following arguments:

I.

Temporary restraining orders and preliminary injunctions were purposely designed to address matters of extreme urgency where there is probability of grave injustice and irreparable injury.<sup>14</sup>

II.

The rule on preliminary injunction merely requires that unless restrained, the act complained of will probably work injustice to the applicant or probably violate his rights and tends to render the judgment ineffectual.<sup>15</sup> (Emphasis in the original.)

Fundamental to the resolution of the instant petition is the issue of whether or not the trial court may issue a temporary restraining order and preliminary injunction to enjoin the construction and operation of the 29 decagon-shaped steel poles or towers by the NAPOCOR, notwithstanding Presidential Decree No. 1818.

Petitioners clutch on their stand that Presidential Decree No. 1818 could not be construed to apply to cases of extreme urgency as in the present case when no less than the rights of the petitioners to health and safety hangs on the balance.

We find the petition to be imbued with merit.

Presidential Decree No. 1818 was issued on 16 January 1981, prohibiting judges from issuing restraining orders against government infrastructure projects. In part, the decree says, "No court in the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction or preliminary order, preliminary mandatory injunction in *any case, dispute or controversy involving an infrastructure project*." Realizing the importance of this decree, this Tribunal had issued different circulars to implement this particular law.

Presidential Decree No. 1818<sup>16</sup> prohibits courts from issuing injunctions against government infrastructure projects. In *Garcia v. Burgos*,<sup>17</sup> Presidential Decree No. 1818 was held to prohibit courts from issuing an injunction against any infrastructure project in order not to disrupt or hamper the pursuit of essential government projects or frustrate the economic development effort of the nation.

While its sole provision would appear to encompass all cases involving the implementation of projects and contracts on infrastructure, natural resource development and public utilities, this rule, however, is not absolute as there are actually instances when Presidential Decree No. 1818 should not find application. In a spate of cases, this Court declared that although Presidential Decree No. 1818 prohibits any court from issuing injunctions in cases involving infrastructure projects, the prohibition extends only to the issuance of injunctions or restraining orders against administrative acts in controversies involving facts or the exercise of discretion in technical cases. On issues clearly outside this dimension and involving questions of law, this Court declared that courts could not be prevented from exercising their power to restrain or prohibit administrative acts.<sup>18</sup>

In the case at bar, petitioners sought the issuance of a preliminary injunction on the ground that the NAPOCOR Project impinged on their right to health as enshrined in Article II, Section 15 of the 1987 Constitution, which provides:

Sec. 15. The State shall protect and promote the right to health of the people and instill consciousness among them.

To boot, petitioners, moreover, harp on respondent's failure to conduct prior consultation with them, as the community affected by the project, in stark violation of Section 27 of the Local Government Code which provides: "no project or program shall be implemented by government authorities unless the consultations mentioned are complied with, and prior approval of the *Sanggunian* concerned is observed."

From the foregoing, whether there is a violation of petitioners' constitutionally protected right to health and whether respondent NAPOCOR had indeed violated the Local Government Code provision on prior consultation with the affected communities are veritable questions of law that invested the trial court with jurisdiction to issue a TRO and subsequently, a preliminary injunction. As such, these questions of law divest the case from the protective mantle of Presidential Decree No. 1818.

Moreover, the issuance by the trial court of a preliminary injunction finds legal support in Section 3 of Rule 58 of the Rules of Court which provides:

Sec. 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. (3a) (Emphasis supplied.)

The rule on preliminary injunction merely requires that unless restrained, the act complained of will probably violate his rights and tend to render the judgment ineffectual.

Here, there is adequate evidence on record to justify the conclusion that the project of NAPOCOR probably imperils the health and safety of the petitioners so as to justify the issuance by the trial court of a writ of preliminary injunction.

Petitioners adduced in evidence copies of studies linking the incidence of illnesses such as cancer and leukemia to exposure to electromagnetic fields. The records bear out, to boot, a copy of a brochure of NAPOCOR regarding its Quezon Power Project from which will be supplying NAPOCOR with the power which will pass through the towers

subject of the controversy. The NAPOCOR brochure provides that because of the danger concomitant with high voltage power, Philippine laws mandate that the power lines should be located within safe distances from residences. And the Quezon Power Project mandates an easement of 20 meters to the right and 20 meters to the left which falls short of the 12-meter easement that NAPOCOR was proposing to petitioners.

Likewise on record, are copies of letters of Napocor President Federico Puno to Rep. Arnulfo Fuentesbello, Chairman of the House Committee on Energy, stating updates on the negotiations being undertaken by the NAPOCOR and the Dasmariñas Village and Forbes Park residents. Also on file is the Privilege Speech dated 10 May 1999 of Representative Francis Joseph G. Escudero, who denounced the cavalier manner with which Napocor ignored safety and consultation requirements in the questioned project.

With a member of Congress denouncing the subject project of NAPOCOR because of the very same health and safety ills that petitioners now hew to in this petition, and with documents on record to show that NAPOCOR made representations to petitioners that they are looking into the possibility of relocating the project, added to the fact that there had been series of negotiations and meetings between petitioners and NAPOCOR as well as related agencies, there is ample indicia to suggest to the mind of the court that the health concerns of the petitioners are, at the very least, far from imaginary.

Indeed, if there is no cause for concern, NAPOCOR would not have been stirred to come up with options to address the woes of petitioners, nor would Congressman Escudero have fired away those strong words of censure, assailing what to Congressman Escudero smacks of a "cavalier manner by which the NAPOCOR has responded to earnest pleas for a review of its practice of installing massive pylons supporting high tension cables in densely populated areas."<sup>19</sup>

True, the issue of whether or not the transmission lines are safe is essentially evidentiary in nature, and pertains to the very merits of the action below. In fact, petitioners recognize that the conclusiveness of their life, health and safety concerns still needs to be proved in the main case below and they are prepared to do so especially in the light of some studies cited by respondent that yield contrary results in a disputed subject. Despite the parties' conflicting results of studies made on the issue, the possibility that the exposure to electromagnetic radiation causes cancer and other disorders is still, indeed, within the realm of scientific scale of probability.

Equally important, we take judicial notice that the area alluded to as location of the NAPOCOR project is a fragile zone being proximate to local earthquake faults, particularly the Marikina fault, among other zones. This is not to mention the risks of falling structures caused by killer tornadoes and super typhoons, the Philippines, especially Central Luzon, being situated along the typhoon belt.

Moreover, the Local Government Code, requires conference with the affected communities of a government project. NAPOCOR, palpably, made a shortcut to this requirement. In fact, there appears a lack of exhaustive feasibility studies on

NAPOCOR's part before making a go with the project on hand; otherwise, it should have anticipated the legal labyrinth it is now caught in.

These are facts, which the trial court could not ignore, and form as sufficient basis to engender the cloud of doubt that the NAPOCOR project could, indeed, endanger the lives of the petitioners. A preliminary injunction is likewise justified prior to a final determination of the issues of whether or not NAPOCOR ignored safety and consultation requirements in the questioned project. Indeed, the court could, nay **should**, grant the writ of preliminary injunction if the purpose of the other party is to shield a wrongdoing. A ruling to the contrary would amount to an erosion of judicial discretion.

After all, for a writ of preliminary injunction to be issued, the Rules do not require that the act complained of be in violation of the rights of the applicant. Indeed, what the Rules require is that the act complained of be **probably** in violation of the rights of the applicant. Under the Rules of Court, probability is enough basis for injunction to issue as a provisional remedy, which is different from injunction as a main action where one needs to establish absolute certainty as basis for a final and permanent injunction.

Pending the final determination of the trial court on the main case for damages, of whether or not the NAPOCOR Project infringes on petitioners' substantive right to health and pending determination of the question of whether there was non-observance of the prior-consultation proviso under the Local Government Code, it is prudent to preserve the status quo. In *Phil. Ports Authority v. Cipres Stevedoring & Arrastre, Inc.*,<sup>20</sup> we held:

A preliminary injunction is an order granted at any stage of an action prior to judgment of final order, requiring a party, court, agency, or person to refrain from a particular act or acts. It is a preservative remedy to ensure the protection of a party's substantive rights or interests pending the final judgment in the principal action. A plea for an injunctive writ lies upon the existence of a claimed emergency or extraordinary situation which should be avoided for otherwise, the outcome of a litigation would be useless as far as the party applying for the writ is concerned.

At times referred to as the "Strong Arm of Equity," we have consistently ruled that there is no power the exercise of which is more delicate and which calls for greater circumspection than the issuance of an injunction. It should only be extended in cases of great injury where courts of law cannot afford an adequate or commensurate remedy in damages; "in cases of extreme urgency; where the right is very clear; where considerations of relative inconvenience bear strongly in complainant's favor; where there is a willful and unlawful invasion of plaintiff's right against his protest and remonstrance, the injury being a continuing one, and where the effect of the mandatory injunction is rather to reestablish and maintain a preexisting continuing relation between the parties, recently and arbitrarily interrupted by the defendant, than to establish a new relation." (Emphasis supplied.)

What is more, contrary to respondents' assertion, there is not a single syllable in the circulars issued by this Court enjoining the observance of Presidential Decree No. 1818,



which altogether and absolutely, ties the hands of the courts from issuing a writ of preliminary injunction. What Circular 2-91<sup>21</sup> dated 15 March 1991 seeks to enjoin is the indiscriminate issuance of court injunctions. The same holds for Circular 13-93<sup>22</sup> dated 5 March 1993 and Circular 68-94.<sup>23</sup> And, in Circular No. 7-99, judges are enjoined to observe utmost caution, prudence and judiciousness in the issuance of temporary restraining order and in the grant of writs of preliminary injunction to avoid any suspicion that its issuance or grant was for consideration other than the strict merits of the case.<sup>24</sup>

There is not a hint from the foregoing circulars suggesting an **unbridled** prohibition against the issuance of temporary restraining orders or preliminary injunctions.

In sum, what Presidential Decree No. 1818 aims to avert is the untimely frustration of government infrastructure projects, particularly by provisional remedies, to the detriment of the greater good by disrupting the pursuit of essential government projects or frustrate the economic development effort of the nation. Presidential Decree No. 1818, however, was not meant to be a blanket prohibition so as to disregard the fundamental right to health, safety and well-being of a community guaranteed by the fundamental law of the land.<sup>25</sup>

Lest we be misconstrued, this decision does not undermine the purpose of the NAPOCOR project which is aimed towards the common good of the people. But, is the promotion of the general welfare at loggerheads with the preservation of the rule of law? We submit that it is not.<sup>26</sup>

In the present case, the far-reaching irreversible effects to human safety should be the primordial concerns over presumed economic benefits per se as alleged by the NAPOCOR.

Not too long ago, the Court, in Metropolitan Manila Development Authority (MMDA) v. Bel-Air Village Association, Inc.,<sup>27</sup> upheld the validity of the writ of preliminary injunction issued by the Court of Appeals enjoining the implementation of the Metropolitan Manila Development Authority's proposed action of opening of the Neptune Street to public vehicular traffic. We were categorical -

Not infrequently, the government is tempted to take legal shortcuts to solve urgent problems of the people. But even when government is armed with the best of intention, we cannot allow it to run roughshod over the rule of law. Again, we let the hammer fall and fall hard on the illegal attempt of the MMDA to open for public use a private road in a private subdivision. While we hold that the general welfare should be promoted, we stress that it should not be achieved at the expense of the rule of law.<sup>28</sup>

In hindsight, if, after trial, it turns out that the health-related fears that petitioners cleave on to have adequate confirmation in fact and in law, the questioned project of NAPOCOR then suffers from a paucity of purpose, no matter how noble the purpose may be. For what use will modernization serve if it proves to be a scourge on an individual's

fundamental right, not just to health and safety, but, ostensibly, to life preservation itself, in all of its desired quality?

**WHEREFORE**, the petition is granted. The decision dated 3 May 2000 of the Court of Appeals in CA-G.R. SP No. 57849 is REVERSED as well as the resolution dated 27 September 2000. The Order dated 3 April 2000 of the Regional Trial Court of Makati in Civil Case No. 00-352 is hereby REINSTATED. No pronouncement as to costs

SO ORDERED.

**MINITA**  
Associate Justice

V.

**CHICO-NAZARIO**

WE CONCUR:

**ARTEMIO**  
Chief  
Chairperson

V.

**PANGANIBAN**  
Justice

**CONSUELO YNARES-SANTIAGO MA. ALICIA AUSTRIA-MARTINEZ**  
Associate Justice Associate Justice

**ROMEO**  
Associate Justice

J.

**CALLEJO,**

**SR.**

#### C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ARTEMIO**  
Chief Justice

V.

**PANGANIBAN**

#### Footnotes

<sup>1</sup> Zamora v. Caballero, G.R. No. 147767, 14 January 2004, 419 SCRA 384, 392, citing Malaga v. Penachos, Jr., G.R. No. 86695, 3 September 1992, 213 SCRA 516, 523-524.

<sup>2</sup> Penned by Associate Justice Rodrigo V. Cosico with Associate Justices Godardo A. Jacinto and Wenceslao I. Agnir, Jr., concurring. Rollo, pp. 32-41.

<sup>3</sup> Rollo, pp. 40-41.

<sup>4</sup> Id., pp. 71-74.

<sup>5</sup> Id., pp. 63-64.

<sup>6</sup> Id., pp. 64-67.

<sup>7</sup> Id., pp. 42-55.

<sup>8</sup> Id., p. 79.

<sup>9</sup> Id.

<sup>10</sup> Id., p. 80.

<sup>11</sup> Id., pp. 81-85.

<sup>12</sup> Id., p. 85.

<sup>13</sup> Id., p. 37.

<sup>14</sup> Id., p. 18.

<sup>15</sup> Id., p. 20.

<sup>16</sup> The amendatory law of P.D. 1818 is Republic Act No. 8975, "An Act to Ensure the Expeditious Implementation and Completion of Government Infrastructure Projects by Prohibiting the Lower Courts from Issuing Temporary Restraining Orders, Preliminary Injunctions, or Preliminary Mandatory Injunctions, Providing Penalties for Violation Thereof, and for Other Purposes," approved on 7 November 2000. Pertinent provisions of the Act read as follows:

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

SEC. 4. *Nullity of Writs and Orders.*- Any temporary restraining order, preliminary injunction or preliminary mandatory injunction issued in violation of Section 3 hereof is void and of no force and effect.

SEC. 5. *Designation of Regional Trial Courts.*- The Supreme Court may designate regional trial courts to act as commissioners with the sole function of receiving facts of the case involving acquisition, clearance and development of right-of-way for government infrastructure projects. The designated regional trial court shall within thirty (30) days from the date of receipt of the referral, forward its findings of facts to the Supreme Court for appropriate action. x x x x (Emphasis supplied)

<sup>17</sup> 353 Phil. 740, 743 (1998).

<sup>18</sup> Zamora v. Caballero, G.R. No. 147767, 14 January 2004, 419 SCRA 384, 392; Malaga v. Penachos supra note 1; G & S Transport Corporation v. Court of Appeals, 432 Phil. 7, 22 (2002).

<sup>19</sup> Rollo, pp. 87-91.

<sup>20</sup> G.R. No. 145742, 14 July 2005, 463 SCRA 358, 373-374.

<sup>21</sup> CIRCULAR NO. 2-91

x x x x

The Office of the Court Administration has been continuously receiving reports and/or complaints against Judges who are indiscriminately issuing court injunctions against the National Power Corporation in gross violation of Sec. 1 of P.D. 1818.

x x x x (Emphasis supplied)

<sup>22</sup> CIRCULAR NO. 13-93

The Office of the Court Administrator has been continuously receiving reports and/or complaints against indiscriminate issuance of restraining orders and court injunctions against the National Power Corporation and other government public utility firms in gross violation of Sec. 1 of P.D. 1818.

x x x x (Emphasis supplied)

<sup>23</sup> CIRCULAR NO. 68-94

x x x x

In order to obviate complaints against the indiscriminate issuance of restraining orders and court injunctions against government public utilities and infrastructure projects in gross violation of the aforesaid Presidential Decree, the provision of Circular No. 13-93 issued on March 5, 1993 is hereby reiterated for your strict compliance.

x x x x (Emphasis supplied)

<sup>24</sup> ADMINISTRATIVE CIRCULAR NO. 7-99

x x x x

Judges are thus enjoined to observe utmost caution, prudence and judiciousness in the issuance of TRO and in the grant of writs of preliminary injunction to avoid any suspicion that its issuance or grant was for consideration other than the strict merits of the case.

x x x x (Emphasis supplied)

<sup>25</sup> ARTICLE II, 1987 CONSTITUTION, Declaration of Principles and State Policies,

Sec. 15. The State shall protect and promote the right to health of the people and instill consciousness among them.

<sup>26</sup> Metropolitan Manila Development Authority v. Bel-Air Village Association, Inc., 385 Phil. 586, 622 (2000).

<sup>27</sup> Id., p. 599.

<sup>28</sup> Id., p. 597.