

Republic of the Philippines
SUPREME COURT
Manila

SECOND DIVISION

G.R. No. 138900 September 20, 2005

LEVI STRAUSS & CO., & LEVI STRAUSS (PHILS.), INC.,
Petitioners,

vs.

CLINTON APPARELLE, INC.,
Respondent.

TINGA, J.:

Before us is a petition for review on certiorari^[1] under Rule 45 of the 1997 Rules of Civil Procedure filed by Levi Strauss & Co. (LS & Co.) and Levi Strauss (Philippines), Inc. (LSPI) assailing the Court of Appeals' *Decision*^[2] and *Resolution*^[3] respectively dated 21 December 1998 and 10 May 1999. The questioned *Decision* granted respondent's prayer for a writ of preliminary injunction in its *Petition*^[4] and set aside the trial court's orders dated 15 May 1998^[5] and 4 June 1998^[6] which respectively granted petitioners' prayer for the issuance of a temporary restraining order (TRO) and application for the issuance of a writ of preliminary injunction.

This case stemmed from the *Complaint*^[7] for Trademark Infringement, Injunction and Damages filed by petitioners LS & Co. and LSPI against respondent Clinton Apparelle, Inc.^{*} (Clinton Apparelle) together with an alternative defendant, Olympian Garments, Inc. (Olympian Garments), before the Regional Trial Court of Quezon City, Branch 90.^[8] The *Complaint* was docketed as Civil Case No. Q-98-34252, entitled "Levi Strauss & Co. and Levi Strauss (Phils.), Inc. v. Clinton Apparelle, Inc. and/or Olympian Garments, Inc."

The *Complaint* alleged that LS & Co., a foreign corporation duly organized and existing under the laws of the State of Delaware, U.S.A., and engaged in the apparel business, is the owner by prior adoption and use since 1986 of the internationally famous "Dockers and Design" trademark. This ownership is evidenced by its valid and existing registrations in various member countries of the Paris Convention. In the Philippines, it has a Certificate of Registration No. 46619 in the Principal Register for use of said trademark on pants, shirts, blouses, skirts, shorts, sweatshirts and jackets under Class 25.^[9]

The "Dockers and Design" trademark was first used in the Philippines in or about May 1988, by LSPI, a domestic corporation engaged in the manufacture, sale and distribution of various products bearing trademarks owned by LS & Co. To date, LSPI continues to manufacture and sell Dockers Pants with the "Dockers and Design" trademark.^[10]

LS & Co. and LSPI further alleged that they discovered the presence in the local market of jeans under the brand name "Paddocks" using a device which is substantially, if not exactly, similar to the "Dockers and Design" trademark owned by and registered in the name of LS & Co., without its consent. Based on their information and belief, they added, Clinton Apparelle manufactured and continues to manufacture such "Paddocks" jeans and other apparel.

However, since LS & Co. and LSPI are unsure if both, or just one of impleaded defendants are behind the manufacture and sale of the "Paddocks" jeans complained of, they brought this suit under Section 13, Rule 3^[11] of the 1997 Rules of Civil Procedure.^[12]

The *Complaint* contained a prayer that reads as follows:

1. That upon the filing of this complaint, a temporary restraining order be immediately issued restraining defendants, their officers, employees, agents, representatives, dealers, retailers or assigns from committing the acts herein complained of, and, specifically, for the defendants, their officers, employees, agents, representatives, dealers and retailers or assigns, to cease and desist from manufacturing, distributing, selling, offering for sale, advertising, or otherwise using denims, jeans or pants with the design herein complained of as substantially, if not exactly similar, to plaintiffs' "Dockers and Design" trademark.

2. That after notice and hearing, and pending trial on the merits, a writ of preliminary injunction be issued enjoining defendants, their officers, employees, agents, dealers, retailers, or assigns from manufacturing, distributing, selling, offering for sale, advertising, jeans the design herein complained of as substantially, if not exactly similar, to plaintiffs' "Dockers and Design" trademark.

3. That after trial on the merits, judgment be rendered as follows:

a. Affirming and making permanent the writ of preliminary injunction;

b. Ordering that all infringing jeans in the possession of either or both defendants as the evidence may warrant, their officers, employees, agents, retailers, dealers or assigns, be delivered to the Honorable Court of plaintiffs, and be accordingly destroyed;^[13]

Acting on the prayer for the issuance of a TRO, the trial court issued an *Order*^[14] setting it for hearing on 5 May 1998. On said date, as respondent failed to appear despite notice and the other defendant, Olympian Garments, had yet to be notified, the hearing was re-scheduled on 14 May 1998.^[15]

On 14 May 1998, neither Clinton Apparelle nor Olympian Garments appeared. Clinton Apparelle claimed that it was not notified of such hearing. Only Olympian Garments allegedly had been issued with summons. Despite the absence of the defendants, the hearing on the application for the issuance of a TRO continued.^[16]

The following day, the trial court issued an *Order*^[17] granting the TRO applied for, the pertinent portions of which state:

...Considering the absence of counsel/s for the defendant/s during the summary hearing scheduled on May 5, 1998 and also during the re-scheduled summary hearing held on May 14, 1998 set for the purpose of determining whether or not a Temporary Restraining Order shall be issued, this Court allowed the counsel for the plaintiffs to present on May 14, 1998 their arguments/evidences in support of their application. After hearing the arguments presented by the counsel for the plaintiffs during the summary hearing, this Court is of the considered and humble view that grave injustice and irreparable injury to the plaintiffs would arise before the matter of whether or not the application for the issuance of a Writ of Preliminary Injunction can be heard, and that, in the interest of justice, and in the meantime, a Temporary Restraining Order be issued.

WHEREFORE, let this Temporary Restraining Order be issued restraining the defendants, their officers, employees, agents, representatives, dealers, retailers or assigns from committing the acts complained of in the verified Complaint, and specifically, for the defendants, their officers, employees, agents, representatives, dealers and retailers or assigns, to cease and desist from

manufacturing, distributing, selling, offering for sale, advertising or otherwise using denims, jeans or pants with the design complained of in the verified Complaint as substantially, if not exactly similar, to plaintiffs' "Dockers and Design" trademark; until after the application/prayer for the issuance of a Writ of Preliminary Injunction is heard/resolved, or until further orders from this Court.

The hearing on the application for the issuance of a Writ of Preliminary Injunction as embodied in the verified Complaint is set on May 26, 1998 (Tuesday) at 2:00 P.M. which setting is intransferable in character considering that the lifetime of this Temporary Restraining Order is twenty (20) days from date hereof.^[18]

On 4 June 1998, the trial court issued another *Order*^[19] granting the writ of preliminary injunction, to wit:

ORDER

This resolves the plaintiffs' application or prayer for the issuance of a writ of preliminary injunction as embodied in the verified complaint in this case. Parenthetically, this Court earlier issued a temporary restraining order. (see *Order* dated May 15, 1998; see also *Order* dated May 26, 1998)

After a careful perusal of the contents of the pleadings and documents on record insofar as they are pertinent to the issue under consideration, this Court finds that at this point in time, the plaintiffs appear to be entitled to the relief prayed for and this Court is of the considered belief and humble view that, without necessarily delving on the merits, the paramount interest of justice will be better served if the status quo shall be maintained and that an injunction bond of ₱2,500,000.00 appears to be in order. (see Sections 3 and 4, Rule 58, 1997 Rules of Civil Procedure)

IN VIEW OF THE FOREGOING, the plaintiffs' prayer for the issuance of a writ of preliminary injunction is GRANTED. Accordingly, upon the plaintiffs' filing, within ten (10) days from their receipt hereof, an injunction bond of ₱2,500,000.00 executed to the defendants to the effect that the plaintiffs will pay all damages the defendants may sustain by reason of this injunction in case the Court should finally decide that the plaintiffs are not entitled thereto, let a writ of preliminary injunction issue enjoining or restraining the commission of the acts complained of in the verified Complaint in this case, and specifically, for the defendants, their officers, employees, agents, representatives, dealers and retailers or assigns or persons acting in their behalf to cease and desist from manufacturing, distributing, selling, offering for sale, advertising, or otherwise using, denims, jeans or pants with the design complained of in the verified Complaint in this case, which is substantially, if not exactly, similar to plaintiffs' "DOCKERS and DESIGN" trademark or logo as covered by the Bureau of Patents, Trademarks and Technology Transfer Certificate of Registration No. 46619, until after this case shall have been decided on the merits and/or until further orders from this Court.^[20]

The evidence considered by the trial court in granting injunctive relief were as follows: (1) a certified true copy of the certificate of trademark registration for "Dockers and Design"; (2) a pair of DOCKERS pants bearing the "Dockers and Design" trademark; (3) a pair of "Paddocks" pants bearing respondent's assailed logo; (4) the Trends MBL Survey Report purportedly proving that there was confusing similarity between two marks; (5) the affidavit of one Bernabe Alajar which recounted petitioners' prior adoption, use and registration of the "Dockers and Design" trademark; and (6) the affidavit of one Mercedes Abad of Trends MBL, Inc. which detailed the methodology and procedure used in their survey and the results thereof.^[21]

Clinton Apparelle thereafter filed a *Motion to Dismiss*^[22] and a *Motion for Reconsideration*^[23] of the *Order* granting the writ of preliminary injunction. Meantime, the trial court issued an *Order*^[24] approving the bond filed by petitioners.

On 22 June 1998, the trial court required^[25] the parties to file their “respective citation of authorities/ jurisprudence/Supreme Court decisions” on whether or not the trial court may issue the writ of preliminary injunction pending the resolution of the *Motion for Reconsideration* and the *Motion to Dismiss* filed by respondent.

On 2 October 1998, the trial court denied Clinton Apparelle’s *Motion to Dismiss* and *Motion for Reconsideration* in an *Omnibus Order*,^[26] the pertinent portions of which provide:

After carefully going over the contents of the pleadings in relation to pertinent portions of the records, this Court is of the considered and humble view that:

On the first motion, the arguments raised in the plaintiffs’ aforesaid Consolidated Opposition appears to be meritorious. Be that as it may, this Court would like to emphasize, among other things, that the complaint states a cause of action as provided under paragraphs 1 to 18 thereof.

On the second motion, the arguments raised in the plaintiffs’ aforesaid Consolidated Opposition likewise appear to be impressed with merit. Besides, there appears to be no strong and cogent reason to reconsider and set aside this Court’s *Order* dated June 4, 1998 as it has been shown so far that the trademark or logo of defendants is substantially, if not exactly, similar to plaintiffs’ “DOCKERS and DESIGN” trademark or logo as covered by BPTTT Certificate of Registration No. 46619 even as the BPTTT Certificate of Registration No. 49579 of Clinton Apparelle, Inc. is only for the mark or word “PADDOCKS” (see Records, p. 377) In any event, this Court had issued an *Order* dated June 18, 1998 for the issuance of the writ of preliminary injunction after the plaintiffs filed the required bond of ₱2,500,000.00.

IN VIEW OF THE FOREGOING, the aforesaid Motion To Dismiss and Motion For Reconsideration are both DENIED for lack of merit, and accordingly, this Court’s *Order* dated June 18, 1998 for the issuance of the writ of preliminary injunction is REITERATED so the writ of preliminary injunction could be implemented unless the implementation thereof is restrained by the Honorable Court of Appeals or Supreme Court.

The writ of preliminary injunction was thereafter issued on 8 October 1998.^[27]

Thus, Clinton Apparelle filed with the Court of Appeals a *Petition*^[28] for certiorari, prohibition and mandamus with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction, assailing the orders of the trial court dated 15 May 1998, 4 June 1998 and 2 October 1998.

On 20 October 1998, the Court of Appeals issued a *Resolution*^[29] requiring herein petitioners to file their comment on the *Petition* and at the same time issued the prayed-for temporary restraining order.

The appellate court rendered on 21 December 1998 its now assailed *Decision* granting Clinton Apparelle’s petition. The Court of Appeals held that the trial court did not follow the procedure required by law for the issuance of a temporary restraining order as Clinton Apparelle was not duly notified of the date of the summary hearing for its issuance. Thus, the Court of Appeals ruled that the TRO had been improperly issued.^[30]

The Court of Appeals also held that the issuance of the writ of preliminary injunction is questionable. In its opinion, herein petitioners failed to sufficiently establish its material and substantial right to have the writ issued. Secondly, the Court of Appeals observed that the survey presented by petitioners to support their contentions was commissioned by petitioners. The Court of Appeals remarked that affidavits taken *ex-parte* are generally considered to be inferior to testimony given in open court. The appellate court also considered that the injury petitioners have suffered or are currently suffering may be compensated in terms of monetary consideration, if after trial; a final judgment shall be rendered in their favor.^[31]

In addition, the Court of Appeals strongly believed that the implementation of the questioned writ would effectively shut down respondent's business, which in its opinion should not be sanctioned. The Court of Appeals thus set aside the orders of the trial court dated 15 May 1998 and 4 June 1998, respectively issuing a temporary restraining order and granting the issuance of a writ of preliminary injunction.

With the denial of their *Motion for Reconsideration*,^[32] petitioners are now before this Court seeking a review of the appellate court's *Decision* and *Resolution*. LS & Co. and LSPI claim that the Court of Appeals committed serious error in: (1) disregarding the well-defined limits of the writ of certiorari that questions on the sufficiency of evidence are not to be resolved in such a petition; (2) in holding that there was no confusion between the two marks; (3) in ruling that the erosion of petitioners' trademark is not protectable by injunction; (4) in ignoring the procedure previously agreed on by the parties and which was adopted by the trial court; and (5) in declaring that the preliminary injunction issued by the trial court will lead to the closure of respondent's business.

In its *Comment*,^[33] Clinton Apparelle maintains that only questions of law may be raised in an appeal by certiorari under Rule 45 of the Rules of Court. It asserts that the question of whether the Court of Appeals erred in: (1) disregarding the survey evidence; (2) ruling that there was no confusion between the two marks; and (c) finding that the erosion of petitioners' trademark may not be protected by injunction, are issues not within the ambit of a petition for review on certiorari under Rule 45. Clinton Apparelle also contends that the Court of Appeals acted correctly when it overturned the writ of preliminary injunction issued by the trial court. It believes that the issued writ in effect disturbed the *status quo* and disposed of the main case without trial.

There is no merit in the petition.

At issue is whether the issuance of the writ of preliminary injunction by the trial court was proper and whether the Court of Appeals erred in setting aside the orders of the trial court.

Section 1, Rule 58 of the Rules of Court defines a preliminary injunction as an order granted at any stage of an action 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. Injunction is accepted as the strong arm of equity or a transcendent remedy to be used cautiously as it affects the respective rights of the parties, and only upon full conviction on the part of the court of its extreme necessity. An extraordinary remedy, injunction is designed to preserve or maintain the *status quo* of things and is generally availed of to prevent actual or threatened acts until the merits of the case can be heard.^[34] It may be resorted to only by a litigant for the preservation or protection of his rights or interests and for no other purpose during the pendency of the principal action.^[35] It is resorted to only when there is a pressing necessity to avoid injurious consequences, which cannot be remedied under any standard compensation. The resolution of an application for a writ of preliminary injunction rests upon the existence of an emergency or of a special recourse before the main case can be heard in due course of proceedings.^[36]

Section 3, Rule 58, of the Rules of Court enumerates the grounds for the issuance of a preliminary injunction:

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.

Under the cited provision, a clear and positive right especially calling for judicial protection must be shown. Injunction is not a remedy to protect or enforce contingent, abstract, or future rights; it 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. There must exist an actual right.^[37] There must be a patent showing by the complaint that there exists a right to be protected and that the acts against which the writ is to be directed are violative of said right.^[38]

There are generally two kinds of preliminary injunction: (1) a prohibitory injunction which commands a party to refrain from doing a particular act; and (2) a mandatory injunction which commands the performance of some positive act to correct a wrong in the past.^[39]

The Court of Appeals did not err in reviewing proof adduced by petitioners to support its application for the issuance of the writ. While the matter of the issuance of a writ of preliminary injunction is addressed to the sound discretion of the trial court, this discretion must be exercised based upon the grounds and in the manner provided by law. The exercise of discretion by the trial court in injunctive matters is generally not interfered with save in cases of manifest abuse.^[40] And to determine whether there was abuse of discretion, a scrutiny must be made of the bases, if any, considered by the trial court in granting injunctive relief. Be it stressed that injunction is the strong arm of equity which must be issued with great caution and deliberation, and only in cases of great injury where there is no commensurate remedy in damages.^[41]

In the present case, we find that there was scant justification for the issuance of the writ of preliminary injunction.

Petitioners anchor their legal right to “Dockers and Design” trademark on the Certificate of Registration issued in their favor by the Bureau of Patents, Trademarks and Technology Transfer.* According to Section 138 of Republic Act No. 8293,^[42] this Certificate of Registration is *prima facie* evidence of the validity of the registration, the registrant’s ownership of the mark and of the exclusive right to use the same in connection with the goods or services and those that are related thereto specified in the certificate. Section 147.1 of said law likewise grants the owner of the registered mark the exclusive right to prevent all third parties not having the owner’s consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered if such use results in a likelihood of confusion.

However, attention should be given to the fact that petitioners’ registered trademark consists of two elements: (1) the word mark “Dockers” and (2) the wing-shaped design or logo. Notably, there is only one registration for both features of the trademark giving the impression that the two should be considered as a single unit. Clinton Apparelle’s trademark, on the other hand, uses the “Paddocks” word mark on top of a logo which according to petitioners is a slavish imitation of the

“Dockers” design. The two trademarks apparently differ in their word marks (“Dockers” and “Paddocks”), but again according to petitioners, they employ similar or identical logos. It could thus be said that respondent only “appropriates” petitioners’ logo and not the word mark “Dockers”; it uses only a portion of the registered trademark and not the whole.

Given the single registration of the trademark “Dockers and Design” and considering that respondent only uses the assailed device but a different word mark, the right to prevent the latter from using the challenged “Paddocks” device is far from clear. Stated otherwise, it is not evident whether the single registration of the trademark “Dockers and Design” confers on the owner the right to prevent the use of a fraction thereof in the course of trade. It is also unclear whether the use without the owner’s consent of a portion of a trademark registered in its entirety constitutes material or substantial invasion of the owner’s right.

It is likewise not settled whether the wing-shaped logo, as opposed to the word mark, is the dominant or central feature of petitioners’ trademark—the feature that prevails or is retained in the minds of the public—an imitation of which creates the likelihood of deceiving the public and constitutes trademark infringement.^[43] In sum, there are vital matters which have yet and may only be established through a full-blown trial.

From the above discussion, we find that petitioners’ right to injunctive relief has not been clearly and unmistakably demonstrated. The right has yet to be determined. Petitioners also failed to show proof that there is material and substantial invasion of their right to warrant the issuance of an injunctive writ. Neither were petitioners able to show any urgent and permanent necessity for the writ to prevent serious damage.

Petitioners wish to impress upon the Court the urgent necessity for injunctive relief, urging that the erosion or dilution of their trademark is protectable. They assert that a trademark owner does not have to wait until the mark loses its distinctiveness to obtain injunctive relief, and that the mere use by an infringer of a registered mark is already actionable even if he has not yet profited thereby or has damaged the trademark owner.

Trademark dilution is the lessening of the capacity of a famous mark to identify and distinguish goods or services, regardless of the presence or absence of: (1) competition between the owner of the famous mark and other parties; or (2) likelihood of confusion, mistake or deception. Subject to the principles of equity, the owner of a famous mark is entitled to an injunction “against another person’s commercial use in commerce of a mark or trade name, if such use begins after the mark has become famous and causes dilution of the distinctive quality of the mark.” This is intended to protect famous marks from subsequent uses that blur distinctiveness of the mark or tarnish or disparage it.^[44]

Based on the foregoing, to be eligible for protection from dilution, there has to be a finding that: (1) the trademark sought to be protected is famous and distinctive; (2) the use by respondent of “Paddocks and Design” began after the petitioners’ mark became famous; and (3) such subsequent use defames petitioners’ mark. In the case at bar, petitioners have yet to establish whether “Dockers and Design” has acquired a strong degree of distinctiveness and whether the other two elements are present for their cause to fall within the ambit of the invoked protection. The Trends MBL Survey Report which petitioners presented in a bid to establish that there was confusing similarity between two marks is not sufficient proof of any dilution that the trial court must enjoin.

The Court also finds that the trial court’s order granting the writ did not adequately detail the reasons for the grant, contrary to our ruling in *University of the Philippines v. Hon. Catungal Jr.*,^[45] wherein we held that:

The trial court must state its own findings of fact and cite particular law to justify grant of preliminary injunction. Utmost care in this regard is demanded.^[46]

The trial court in granting the injunctive relief tersely ratiocinated that “the plaintiffs appear to be entitled to the relief prayed for and this Court is of the considered belief and humble view that, without necessarily delving on the merits, the paramount interest of justice will be better served if the status quo shall be maintained.” Clearly, this statement falls short of the requirement laid down by the above-quoted case. Similarly, in *Developers Group of Companies, Inc. v. Court of Appeals*,^[47] we held that it was “not enough” for the trial court, in its order granting the writ, to simply say that it appeared “after hearing that plaintiff is entitled to the relief prayed for.”

In addition, we agree with the Court of Appeals in its holding that the damages the petitioners had suffered or continue to suffer may be compensated in terms of monetary consideration. As held in *Government Service Insurance System v. Florendo*:^[48]

...a writ of injunction should never have been issued when an action for damages would adequately compensate the injuries caused. The very foundation of the jurisdiction to issue the writ of injunction rests in the probability of irreparable injury, inadequacy of pecuniary estimation and the prevention of the multiplicity of suits, and where facts are not shown to bring the case within these conditions, the relief of injunction should be refused.^[49]

We also believe that the issued injunctive writ, if allowed, would dispose of the case on the merits as it would effectively enjoin the use of the “Paddocks” device without proof that there is basis for such action. The prevailing rule is that courts should avoid issuing a writ of preliminary injunction that would in effect dispose of the main case without trial.^[50] There would be a prejudgment of the main case and a reversal of the rule on the burden of proof since it would assume the proposition which petitioners are inceptively bound to prove.^[51]

Parenthetically, we find no flaw in the Court of Appeals’ disquisition on the consequences of the issued injunction. An exercise of caution, we believe that such reflection is necessary to weigh the alleged entitlement to the writ *vis-à-vis* its possible effects. The injunction issued in the instant case is of a serious nature as it tends to do more than to maintain the *status quo*. In fact, the assailed injunction if sustained would bring about the result desired by petitioners without a trial on the merits.

Then again, we believe the Court of Appeals overstepped its authority when it declared that the “alleged similarity as to the two logos is hardly confusing to the public.” The only issue brought before the Court of Appeals through respondent’s *Petition* under Rule 65 of the Rules of Court involved the grave abuse of discretion allegedly committed by the trial court in granting the TRO and the writ of preliminary injunction. The appellate court in making such a statement went beyond that issue and touched on the merits of the infringement case, which remains to be decided by the trial court. In our view, it was premature for the Court of Appeals to declare that there is no confusion between the two devices or logos. That matter remains to be decided on by the trial court.

Finally, we have no contention against the procedure adopted by the trial court in resolving the application for an injunctive writ and we believe that respondent was accorded due process. Due process, in essence, is simply an opportunity to be heard. And in applications for preliminary injunction, the requirement of hearing and prior notice before injunction may issue has been relaxed to the point that not all petitions for preliminary injunction must undergo a trial-type hearing, it being a hornbook doctrine that a formal or trial-type hearing is not at all times and in all instances essential to due process. Due process simply means giving every contending party the opportunity to be heard and the court to consider every piece of evidence presented in their favor. Accordingly, this Court has in the case of *Co v. Calimag, Jr.*,^[52] rejected a claim of denial of due process where such claimant was given the opportunity to be heard, having submitted his counter-affidavit and memorandum in support of his position.^[53]

After a careful consideration of the facts and arguments of the parties, the Court finds that petitioners did not adequately prove their entitlement to the injunctive writ. In the absence of proof of a legal right and the injury sustained by the applicant, an order of the trial court granting the issuance of an injunctive writ will be set aside for having been issued with grave abuse of discretion.^[54] Conformably, the Court of Appeals was correct in setting aside the assailed orders of the trial court.

WHEREFORE, the instant petition is DENIED. The *Decision* of the Court of Appeals dated 21 December 1998 and its *Resolution* dated 10 May 1999 are AFFIRMED. Costs against petitioners.

SO ORDERED.

DANTE O. TINGA
Associate Justice

WE CONCUR:

REYNATO S. PUNO
Associate Justice
Chairman

MA. ALICIA AUSTRIA-MARTINEZ ROMEO J. CALLEJO, SR.
Associate Justice *Associate Justice*

MINITA V. CHICO-NAZARIO
Associate Justice

ATTESTATION

I attest 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.

REYNATO S. PUNO
Associate Justice
Chairman, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairman's Attestation, it is hereby certified 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.

HILARIO G. DAVIDE, JR.
Chief Justice

FOOTNOTES:

^[1]Rollo, pp. 26-91; Dated 6 July 1999.

^[2]*Id.* at 93-101; Penned by Associate Justice Eloy R. Bello, Jr. and concurred in by Associate Justices Salome A. Montoya and Ruben T. Reyes.

^[3]*Id.* at 103.

^[4]*Id.* at 104-142.

^[5]RTC Records, p. 79.

^[6]CA Rollo, p. 42.

^[7]RTC Records, pp. 1-9; Dated 29 April 1998.

^[8]It calls itself Clinton Apparel, Inc.

^[9]The case was filed on 30 April 1998; Rollo, pp. 41, 94.

^[9]Rollo, pp. 29-31.

^[10]*Id.* at 41-42.

^[11]SEC. 13. *Alternative defendants.* – Where the plaintiff is uncertain against who of several persons he is entitled to relief, he may join any or all of them as defendants in the alternative, although a right to relief against one may be inconsistent with a right of relief against the other.

^[12]Rollo, p. 94.

^[13]RTC Records, pp. 7-8.

^[14]Rollo, p. 378; Dated 4 May 1998.

^[15]*Id.* at 727-728.

^[16]*Id.* at 95, 678.

^[17]RTC Records, p. 79.

^[18]*Ibid.*

^[19]RTC Records, p. 417.

^[20]*Ibid.*

^[21]Rollo, pp. 749-750.

^[22]RTC Records, 418-424; Dated 5 June 1998.

^[23]CA Rollo, pp. 66-71; Dated 5 June 1998.

^[24]RTC Records, p. 494; Dated 18 June 1998.

^[25]In an Order of even date; *Id.* at 495.

^[26]*Id.* at 576.

^[27]*Id.* at 577.

^[28]CA Rollo, pp. 2-40; Dated 12 October 1998.

^[29]*Id.* at 117-118.

^[30]Rollo, p. 98.

^[31]*Id.* at 99-100.

^[32]CA Rollo, pp. 1251-1268; Dated 11 January 1999.

^[33]Rollo, pp. 601-628; Dated 18 October 1999; In a Resolution dated 10 May 1999, *id.* at 103.

^[34]*Toyota Motor Phils. Corporation Workers' Association (TMPCWA) v. Court of Appeals*, G.R. No. 148924, 24 September 2003, 412 SCRA 69, 85-86.

^[35]*Id.*; *Government Service Insurance System v. Florendo*, G.R. No. 48603, 29 September 1989, 178 SCRA 76, 83-84.

^[36]*Toyota Motor Phils. Corporation Workers' Association (TMPCWA) v. Court of Appeals*; *id.* at 85-86.

^[37]*Republic of the Philippines v. Judge Villarama, Jr.*, 344 Phil. 288, 302-303 (1997).

^[38]*Government Service Insurance System v. Florendo*, *supra* note 35; *National Power Corporation v. Vera*, G.R. No. 83558, 27 February 1989, 170 SCRA 721, 727.

^[39]HERRERA, OSCAR M., *REMEDIAL LAW* (1999 Edition) 71.

^[40]*Government Service Insurance System v. Florendo*, *supra* note 35 at 89.

^[41]*University of the Philippines v. Hon. Catungal, Jr.*, 338 Phil. 728, 743 (1997).

* Now called Intellectual Property Office.

^[42]Otherwise known as the "Intellectual Property Code of the Philippines."

^[43]*See Co Tiong Sa v. Director of Patents*, 95 Phil. 1, 5 (1954).

^[44]*Toys "R" Us v. Akkaoui*, 40 U.S. P.Q. 2d (BNA) 1836 (N.D. Cal. 1996).

^[45]338 Phil. 728, 743 (1997).

^[46]*Id.*

^[47]G.R. No. 104583, 8 March 1993, 219 SCRA 715, 721.

^[48]*Government Service Insurance System v. Florendo*, *supra* note 35.

^[49]*Government Service Insurance System v. Florendo*, *supra* note 35 at 87; *See Golding v. Bala tbat*, 36 Phil. 941, 947 (1917)

^[50]*Searth Commodities Corp. v. Court of Appeals*, G.R. No. 64220, 31 March 1992, 207 SCRA 622, 629.

^[51]*Id.* at 630.

^[52]389 Phil. 389, 394-395 (2000).

^[53]*Batangas Laguna Tayabas Bus Co., Inc. v. Bitanga*, 415 Phil. 43, 55 (2001); *See Co. v. Judge Calimag*, *supra*, *citing NFL v. NLRC*, 283 SCRA 275 (1997) and *Ginete v. Court of Appeals*, 296 SCRA 38 (1998).

^[54]*See Ong Ching Kian Chuan v. Court of Appeals*, G.R. No. 130360, 15 August 2001, 363 SCRA 145, 154.