

SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
Supreme Court  
Manila

**SECOND DIVISION**

**AMALGAMATED  
PHILIPPINES, INC.,**

**MOTORS**

**G.R. No. 206042**

Petitioner,

**Present:**

- versus -

**SECRETARY OF THE  
DEPARTMENT OF  
TRANSPORTATION AND  
COMMUNICATIONS [HON.  
MANUEL A. ROXAS, II AND  
HON. JOSEPH EMILIO  
AGUINALDO ABAYA],  
VIRGINIA P. TORRES, AND  
ILDEFONSO T. PATDU, JR.,**  
Respondents.

LEONEN, J., Chairperson,  
LAZARO-JAVIER,  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JR., JJ.

**Promulgated:**

**JUL 04 2022**

*[Signature]*

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**DECISION**

**LOPEZ, J., J.:**

As a prospective bidder, petitioner's participation in the bidding process and its concomitant rights remain just that – as a prospective bidder. Petitioner's right, for purposes of the preliminary injunction, is not clear and unmistakable. It is not a right *in esse*. At best, petitioner's right was merely speculative.

For this Court's resolution is the Petition for Review on *Certiorari*<sup>1</sup> dated March 19, 2012 assailing the Decision<sup>2</sup> dated September 28, 2012 and the Resolution<sup>3</sup> dated March 6, 2013 of the Court of Appeals (CA) in CA-G.R.

<sup>1</sup> *Rollo*, pp. 3-45.

<sup>2</sup> Penned by Associate Justice Florito S. Macalino, with Associate Justices Sesinando E. Villon and Socorro B. Inting, concurring; *id.* at 54-72.

<sup>3</sup> *Id.* at 74-80.

*[Handwritten mark]*

SP No. 125203, which reversed the Orders dated February 16, 2011<sup>4</sup> and June 1, 2012<sup>5</sup> of the Regional Trial Court Branch 96, Quezon City (*RTC*) in Civil Case No. Q-10-68555 issuing a writ of preliminary injunction against the Invitation to Bid dated December 24, 2010 and the new Invitation to Bid by reason of Special Order No. 2011-181, respectively.

### *The Antecedents*

On May 24, 2010, the Land Transportation Office (*LTO*) published an Invitation to Bid for the Supply and Delivery of Philippine Driver's License Cards through its Bids and Awards Committee (*BAC*).<sup>6</sup> Realtime Data Management Services, Inc. (*RDMSI*) and petitioner Amalgamated Motors Philippines, Inc. (*AMPI*) purchased bidding documents and the Terms of Reference (*TOR*) for the project for ₱84,000.00.<sup>7</sup>

Certain issues hounded the project. Thus, to answer the participants' queries and clarify their issues, the LTO-BAC deferred the opening of bid documents.<sup>8</sup> Department of Transportation and Communications (*DOTC*) Secretary Jose P. de Jesus (*Secretary De Jesus*) required a comprehensive review of the TOR, which led to its modification. Two (2) DOTC officials were also added as members of the LTO-BAC.<sup>9</sup> Eventually, the LTO-BAC suspended the opening of bid documents and Secretary De Jesus issued Department Order (*D.O.*) No. 2010-36, which created a Special Bids and Awards Committee (*SBAC*) for the Supply, Production, and Delivery of Driver's License Cards Project.<sup>10</sup>

On December 24, 2010, the DOTC-SBAC posted a new Invitation to Bid for the project.<sup>11</sup> It noted that previous participants who purchased the original bid documents, like RDMSI and AMPI, would be issued new sets of bid documents upon presentation of their receipt for the previous bid documents.<sup>12</sup> However, RDMSI filed a Petition for Declaratory Relief with Prayer for Temporary Restraining Order/Preliminary Injunction before the RTC.<sup>13</sup> It alleged that it had a capacity to file such petition as a bidder under the May 24, 2010 Invitation to Bid.

<sup>4</sup> Penned by Presiding Judge Afable E. Cajigal; *id.* at 111-117.

<sup>5</sup> *Rollo*, pp. 198-210.

<sup>6</sup> *Id.* at 55, 81-82.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 55.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 55-56.

<sup>11</sup> *Id.* at 56.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

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In an Order<sup>14</sup> dated February 16, 2011, the RTC granted RDMSI's application for the issuance of a writ of preliminary injunction.<sup>15</sup> Secretary De Jesus then issued Special Order (S.O.) No. 2011-181<sup>16</sup> entitled "Strengthening of the Bids and Awards Committee and its Secretariat," which created the DOTC Primary and Secondary BACs for all procurement of goods, infrastructure projects, and consultancy services of the DOTC, whether locally or foreign-funded.<sup>17</sup> On April 17, 2012, the DOTC posted a new Invitation to Bid on its website for the DOTC-Road Transportation Information Technology Infrastructure Project (*RTITIP*).<sup>18</sup>

Thus, AMPI filed an Urgent Motion for Leave to File Petition-in-Intervention, questioning the validity of D.O. No. 2010-36 and S.O. No. 2011-181.<sup>19</sup> In a Resolution<sup>20</sup> dated April 30, 2012, the RTC granted AMPI's motion.<sup>21</sup> In another Order<sup>22</sup> dated June 1, 2012, the RTC also granted AMPI's application for the issuance of a writ of preliminary injunction.<sup>23</sup>

Aggrieved, Manuel A. Roxas II, as then incumbent DOTC Secretary, Virginia P. Torres, as the DOTC's Assistant Secretary, and Ildefonso T. Patdu, as Chairperson of the DOTC-SBAC (collectively, *Secretary Roxas, et al.*), filed a Petition for *Certiorari* with the CA, assailing the RTC's writs of preliminary injunction as having been issued with grave abuse of discretion.<sup>24</sup>

In a Decision<sup>25</sup> dated September 28, 2012, the CA reversed and set aside the RTC Orders dated February 16, 2011 and June 1, 2012 and dissolved the writs of preliminary injunction issued pursuant to said orders.<sup>26</sup> The CA ruled that RDMSI and AMPI are not entitled to the writs of injunction because they do not have a clear and unmistakable right that must be protected.<sup>27</sup> While there is no dispute that RDMSI and AMPI have purchased bidding documents and TORs, they participated in the pre-bid conference with other bidders, and the scheduled opening of bids was suspended, they are still not considered bidders yet. Accordingly, they are merely potential or future bidders because there is no bid or signed offer or proposal submitted by them in response to the bidding documents. The CA pronounced that RDMSI and AMPI's claimed right is still indefinite until the same is properly threshed out in a trial. There is, therefore, no need for the protection of an injunctive writ.<sup>28</sup>

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<sup>14</sup> *Id.* at 111-117.

<sup>15</sup> *Id.* at 56-57.

<sup>16</sup> *Id.* at 57.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 10 and 372.

<sup>19</sup> *Id.* at 57.

<sup>20</sup> *Id.* at 180-183.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 198-210.

<sup>23</sup> *Id.* at 58.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 54-72.

<sup>26</sup> *Id.* at 71.

<sup>27</sup> *Id.* at 68.

<sup>28</sup> *Id.* at 69.

Undaunted, AMPI moved for partial reconsideration, which the CA denied in a Resolution<sup>29</sup> dated March 6, 2013.

Hence, this petition.

AMPI posits that, procedurally and substantially, the CA should not have granted Secretary Roxas, *et al.*'s petition. Procedurally, Secretary Roxas, *et al.*'s petition was defective because the 60-day period within which to file a petition for *certiorari* had already lapsed. Substantially, AMPI asserts that: (a) having purchased the TOR for ₱84,000.00, it is endowed with concomitant rights over the bidding to be conducted and its rights as a bidder is not merely contingent or inchoate;<sup>30</sup> (b) AMPI presented sufficient evidence to prove its clear and unmistakable right to the injunctive writs;<sup>31</sup> and (c) considerations of public interest guided the RTC in issuing the injunctive writs.<sup>32</sup>

AMPI insists that upon payment, it had a right to expect government agencies and BACs to comply with existing applicable laws and not to be subjected to department orders with retroactive application.<sup>33</sup> AMPI harps on its status as a regular government bidder and the current supplier of driver's license cards to the LTO.<sup>34</sup> Finally, it contends that the issuance of an injunctive writ rests on the RTC's sound discretion.<sup>35</sup>

### *The Issue*

The sole issue in this case is whether the CA erred in dissolving the writs of preliminary injunction issued by the RTC.

### *The Court's Ruling*

The Court denies the instant petition.

### *Respondents timely filed the petition for certiorari with the CA*

Petitioner argues that respondents filed the petition for *certiorari* with the CA out of time – or one year and five months beyond the reglementary period.

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<sup>29</sup> *Id.* at 74-80.

<sup>30</sup> *Id.* at 27.

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

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

<sup>33</sup> *Id.* at 27.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 31.

The Court clarifies. What was filed one year and five months beyond the reglementary period was the petition questioning the RTC's Order dated February 16, 2011. On this score, the CA has already ruled that the broader interest of justice warranted its recognition of the petition,<sup>36</sup> thus:

RDMSI and AMPI are correct in their observation that the instant petition for *certiorari*, dated June 14, 2012, was filed out of time as regards the February 16, 2011 Order which was received by petitioners on February 17, 2011. Under Rule 65, Section 4, of the Rules of Court, petitioners have sixty days from notice of the assailed order within which to file a petition for *certiorari*. Nonetheless, said rule will not be strictly applied in the broader interest of justice and with the desired objective of deciding the case on the merits. Thus, this petition for *certiorari* will not be dismissed based on such procedural rule and because this case, by its nature, is invested with public interest.<sup>37</sup>

The CA reiterated the foregoing in its Resolution<sup>38</sup> dated March 6, 2013 denying petitioner's motion for partial reconsideration, to wit:

The petition for *certiorari* was admitted and the rules on prior filing of a motion for reconsideration and filing within 60 days from notice of the assailed order were relaxed based on the following grounds: (1) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (2) where public interest is involved; (3) the merits of the case; (4) in the name of substantial justice and fair play; and (5) exercise of this Court's sound discretion. Even private respondents recognize the importance of the case and acknowledge that the same is imbued with public interest.<sup>39</sup>

This Court does not see any reason to disturb the CA's findings.

***Petitioner has not complied with the  
requisites for the issuance of a writ of  
preliminary injunction***

The purpose of a writ of preliminary injunction is "to prevent threatened or continuous irremediable injury to some of the parties before their claims can be thoroughly studied and adjudicated."<sup>40</sup> Aiming to preserve the *status quo* until the merits of the case can be fully heard, the court will only issue such writ when it is satisfied that the applicant has a clear and unmistakable

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<sup>36</sup> Rollo, p. 64.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 74-80.

<sup>39</sup> *Id.* at 77.

<sup>40</sup> *Marquez v. Judge Sanchez*, 544 Phil. 507, 517 (2007).



right to it and an urgent necessity for its issuance.<sup>41</sup> In *Marquez v. Sanchez*,<sup>42</sup> this Court explained the nature of the writ, thus:

The writ of preliminary injunction is issued to

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

Under Section 3, Rule 58 of the 1997 Revised Rules of Civil Procedure, the issuance of a writ of preliminary injunction may be granted if the following grounds are established, thus:

(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.<sup>43</sup>

Taking off from *Marquez*, the following are the requisites for the issuance of a preliminary injunction:

- (1) the applicant must have a clear and unmistakable right, that is a right *in esse*;
- (2) there is a material and substantial invasion of such right;
- (3) there is an urgent need for the writ to prevent irreparable injury to the applicant; and
- (4) no other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury.<sup>44</sup>

We do not find the foregoing requisites to be present in this case.

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<sup>41</sup> *Id.*

<sup>42</sup> *Supra* note 40.

<sup>43</sup> *Id.* (Citations omitted)

<sup>44</sup> *Id.* at 517, citing *Hutchison Ports Philippines Ltd. v. Subic Bay Metropolitan Authority*, 393 Phil. 843, 859 (2000); and *Biñan Steel Corporation v. Court of Appeals*, 439 Phil. 688, 703 (2002).

***Petitioner failed to establish its right  
in esse***

Petitioner argues that all bidders, whether prospective or qualified, have a clear and unmistakable right to demand that the bids and awards committee conducting the bid is duly authorized by law to do so.<sup>45</sup> It claims that as a prospective bidder, it has the right “to expect government agencies and BACs to comply with existing applicable laws and not to be subjected to a retroactively applied Department orders and issuances, to its prejudice as paying prospective bidders.”<sup>46</sup> Petitioner contends that its right as a prospective bidder reckons from the moment of its actual purchase of the Terms of Reference and other bidding documents.<sup>47</sup>

Petitioner’s arguments fail to persuade.

At times, petitioner interchangeably refers to itself as a prospective bidder and a regular bidder.<sup>48</sup> In the context of the bidding process, these are markedly different concepts. We find respondents’ argument on this matter persuasive:

At the outset, AMPI has no clear and unmistakable right to be protected. It is settled that a prospective bidder has no clear legal right to be awarded the contract bid for. In fact, even the Invitation to Bid published by the LTO-BAC duly notified prospective bidders that the procuring entity “reserves the right to accept or reject any bid, to annul the bidding process, and to reject all bids at any time prior to contract award, without thereby incurring any liability to the affected bidder or bidders.”

This reservation of the right of the procuring entity “to accept or reject any bid” or to “annul the bidding process” is one of the terms and conditions of the Invitation to Bid which AMPI accepted, acknowledged, and voluntarily submitted itself to. As a consequence, AMPI cannot claim that, among others, the creation of a new DOTC-SBAC through DOTC D.O. No. 2010-36 and the restarting of the bidding would be violative of its right as a bidder under the law and would set at naught all of their earlier efforts to comply with an already advertised Invitation to Bid issued by the LTO-BAC.

Where the invitation to bid contains a reservation for the government to reject any or all bids, the lowest or highest bidder, as the case may be, is not entitled to an award as a matter of right for it does not become the ministerial duty of the government to make such award. x x x

x x x x

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<sup>45</sup> *Rollo*, p. 26.

<sup>46</sup> *Id.* at 27.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at 27-28.

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Advertisements for bidders are simply invitations to make proposals and the advertiser is not bound to accept the highest or lowest bidder, unless the contrary appears. Even the lowest bid or any bid may be rejected. To iterate, the discretion to accept or reject bids and award contracts is vested in the government agencies entrusted with that function, and when it exercises that discretion, the bidders have no cause to complain.

AMPI's "legal interest" is it already purchased bidding documents from the LTO-BAC. Such purchase, at best, gave it the *option* to participate in the bidding process should the BAC determine after a review of the documents that AMPI is capable of complying with the terms of the project. Strictly speaking, however, AMPI cannot be considered as a "bidder" within the contemplation of R.A. 9184. As Section 5(e) of the IRR of R.A. 9184 states, a *bidder* is "an *eligible* contractor, manufacturer, supplier, distributor and/or consultant competing for the award of a contract in any government procurement." A contractor, manufacturer, supplier, distributor or consultant is said to be eligible *if it meets all the eligibility requirements issued by the procuring entity*. Clearly then, a "bidder" under R.A. No. 9184 does not refer to a party who merely purchased bidding documents from the procuring entity, but to one who has already been declared "eligible" after it has complied with all the eligibility requirements. Neither AMPI nor RDMSI can claim to fall under this definition. Having said that, the Court of Appeals rightfully considered that it was grave abuse of discretion on the part of Judge Cajigal to issue an injunction to 'protect' the rights of AMPI and RDMSI as bidders when no such right exists.<sup>49</sup>

In any event, petitioner does not deny that it is a prospective bidder. Accordingly, its participation in the bidding process and its concomitant rights remain just that – as a prospective bidder.

Petitioner insists that it had neither alleged nor implied that its legal interest consists of the right to be awarded the contract.<sup>50</sup> It maintains that its issue lies less in the manner of the award of the contract but more in the fact that the bidding procedure itself did not take off in accordance with law.<sup>51</sup> Although guised as a concern over the proper implementation of procurement laws,<sup>52</sup> the records reveal that petitioner was aggrieved by the way the DOTC Secretary altered the LTO's manner and method of bidding or awarding. According to petitioner, it is seeking clarification "on the right of the Secretary of the DOTC to tamper with established bidding procedures in the LTO, intrude on a bidding which has already been initiated, and to retroactively apply orders on ongoing biddings."<sup>53</sup>

Petitioner cried foul after the DOTC published another Invitation to Bid after it purchased the TOR and other bidding documents. In other words, petitioner hinges its right as a prospective bidder to expect that the bidding process under which it purchased the TOR and bidding documents will push

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<sup>49</sup> *Id.* at 433-437. (Citations omitted)

<sup>50</sup> *Id.* at 569.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 27.

<sup>53</sup> *Id.* at 28.



through and that the DOTC Secretary will not initiate a new bidding process while the current bidding is taking place.<sup>54</sup> Yet, regardless of how petitioner clothes its arguments, the circumstance that petitioner is a mere prospective bidder does not change.

Without necessarily preempting the RTC's ruling in the main case, this Court finds that petitioner's right, for purposes of the preliminary injunction, is not clear and unmistakable. It is not a right *in esse*. At best, petitioner's right was merely speculative.

The case of *Thunder Security and Investigation Agency/Lasala v. National Food Authority (Region I), et al.*<sup>55</sup> elucidated that an injunction will not lie to protect or enforce contingent, abstract, or future rights. In the said case, Thunder Security and Investigation Agency (*Thunder*) entered into a Contract for Security Services with the National Food Authority (*NFA*). As the contract was about to expire, the NFA published an Invitation to Apply for Eligibility and to Bid. After Thunder paid the bidding fee to signify its intention to participate in the bidding process, the NFA notified Thunder to submit the required documents not later than a certain date to qualify for the bidding. For failure to submit the required documents, the NFA informed Thunder that its application to bid had been rejected. This led Thunder to file a petition for prohibition and preliminary injunction with the RTC, which it granted. On a petition for *certiorari* with the CA, the CA granted the petition and reversed the RTC's orders granting injunctive relief. In affirming the CA, this Court noted that when the RTC denied the NFA's motion for reconsideration of its Order granting the writ, Thunder had no more legal rights under the service contract because the contract had already expired. Owing to the contract's expiry, whatever right Thunder had was no longer *in esse*. Therefore:

In this case, it is apparent that when the RTC issued its December 1, 2005 Order, petitioner has no more legal rights under the service contract which already expired on September 15, 2003. Therefore, it has not met the first vital requisite that it must have material and substantial rights that have to be protected by the courts. It bears stressing that an 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. Verily, petitioner cannot lay claim to an actual, clear and positive right based on an expired service contract.<sup>56</sup>

In the present case, petitioner, being a mere prospective bidder, did not have any clear and unmistakable right. It must be remembered that in *Thunder*, the fact that Thunder paid the bidding fee did not automatically secure its right as a bidder – it was for the purpose of signifying its intention

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<sup>54</sup> *Id.*

<sup>55</sup> 670 Phil. 351 (2011).

<sup>56</sup> *Id.* at 361. (Citations omitted)

to participate in the bidding process that it paid the fee. Beyond such payment, something more had to be done. To qualify for the bidding, Thunder had to submit required documents. To put it another way, one's rights as a bidder does not automatically vest upon mere payment of the required bidding fee, or in this case, mere purchase of the TOR and other bidding documents. This is the reason why this Court had to qualify between a prospective bidder and a regular bidder – the former being the classification to which petitioner belongs. To be sure, petitioner cannot claim an actual, clear, and positive right based on its status as a prospective bidder.

This Court finds it apt to echo the CA's Decision dated September 28, 2012 on this matter:

However, RDMSI and AMPI are not entitled to the writs of injunction issued by the trial court in its assailed Orders because they do not have a clear and unmistakable right which must be protected.

x x x x

In the instant case, aside from the fact that RDMSI and AMPI themselves seek for the clarification of their rights as bidders, petitioners seriously challenge that they have a right considering that they are not considered bidders yet. There is no dispute that RDMSI and AMPI have purchased Bidding Documents and Terms of Reference, that they participated in the pre-bid conference with other prospective bidders, and that the scheduled opening of bids was suspended. Hence, from their own statements, it can be gleaned that they are mere potential or future bidders as indeed, there is no bid or signed offer or proposal submitted by them in response to the Bidding Documents.

A writ of preliminary injunction may be issued only upon clear showing of an actual existing right to be protected during the pendency of the principal action. When the complainant's right or title is doubtful or disputed, he does not have a clear legal right and therefore, the issuance of injunctive relief is not proper. RDMSI and AMPI's claimed right is still indefinite, at least until the same is properly threshed out in a trial, thus, there is no need for the protection of an injunctive writ. Having no clear legal right, RDMSI and AMPI's plea for injunction should not have merited the favorable action of the RTC. The Orders granting the writ of preliminary injunction were thus clearly erroneous, having been issued with grave abuse of discretion, and must be set aside.<sup>57</sup>

The foregoing holds more truth in light of the fact that the Invitation to Bid dated May 24, 2010 contained a description saying that “[b]idding is open to all interested bidders, whether local or foreign, subject to the conditions for eligibility provided in the IRR of RA 9184”<sup>58</sup> and that “[t]he description of an eligible bidder is contained in the Bidding Documents, particularly, in Section

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<sup>57</sup> *Rollo*, pp. 68-69.

<sup>58</sup> *Id.* at 81.

II. Instructions To Bidders.”<sup>59</sup> Clearly, prospective bidders must be “eligible” to qualify.

Petitioner tenaciously insists on the applicability of *Metropolitan Manila Development Authority v. Trackworks Rail Transit Advertising, Vending and Promotions, Inc.*<sup>60</sup> We disagree. *Metropolitan Manila Development Authority* is inapplicable. Respondent Trackworks’ right therein was based on an existing contract, which endowed it with the exclusive right to undertake advertising and promotional activities at the MRT3 structure.<sup>61</sup>

Notwithstanding, petitioner harps on its status as the current supplier of driver’s license cards to the LTO.<sup>62</sup> It opines that as a legitimate bidder and a regular contractor for the LTO, it is invested with sufficient legal interest and a real right on the proper implementation of procurement laws within the LTO.<sup>63</sup> But this Court finds that its status as the current supplier of driver’s license cards had nothing to do with the Invitations to Bid dated May 24, 2010 and December 24, 2010. Indeed, petitioner cannot find solace in its contract with LTO, for it is precisely for the purpose of securing a new contract that the DOTC had initiated a new bidding process.

Moreover, petitioner had no clear and unmistakable right with respect to S.O. No. 2011-181, the bid conference of which pertained to the DOTC-RTTIP. Needless to say, General Bid Bulletin No. 002-2012 dated May 10, 2012 specified how the project did not include the supply and delivery of driver’s license cards and all items included under the Invitation to Bid dated May 24, 2010:

x x x x

For the avoidance of doubt, this project shall exclude the supply and delivery of drivers’ license cards and all items included under the Invitation to Bid dated 24 May 2010 issued by the Land Transportation Office, a copy of which is attached hereto as Annex 1. The winning bidder shall deliver a Drivers’ Licensing System and/or paperless card system with due regard to the rights of third parties.<sup>64</sup>

In BAC Resolution No. 2012-03, the Committee also clarified:

x x x x

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<sup>59</sup> *Id.*  
<sup>60</sup> 510 Phil. 826 (2005).  
<sup>61</sup> *Id.* at 829-830.  
<sup>62</sup> *Rollo*, p. 27.  
<sup>63</sup> *Id.*  
<sup>64</sup> *Id.* at 370.

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**NOW, THEREFORE**, for and in consideration of the foregoing premises and to avoid confusion and erase all doubts, the Committee, resolved as it hereby resolves to make the following clarifications, to wit:

1. That Special Order No. 2011-181 dated 24 August 2011, issued by Secretary Mar Roxas does not cover the procurement of LTO Supply, Production and Delivery of Driver's License Cards under Department Order No. 2010 issued by then Secretary Jose P. De Jesus, and, which is the subject of an Injunction Order issued by the RTC, Quezon City Branch 96 in favor of Realtime;
2. That the DOTC Road Transportation Infrastructure IT Project is a DOTC project for the DOTC transportation sector namely: LTO and LTFRB, and does not include the Supply, Production and Delivery of Driver's License Cards which is a project covered by Department Order No. 2010-36 dated 27 October 2010 issued by then Secretary Jose P. De Jesus, and, which is the subject of an Injunction Order issued by the RTC, Quezon City Branch 96 in favor of Realtime;
3. That the issuance of Special Order No. 2011-181 and Invitation to Bid for the DOTC Road Transportation IT Project both do not cover or contemplate to cover the procurement for the LTO Supply, Production and Delivery of Driver's License Cards which is the subject matter of a pending case before RTC Quezon City, Branch 96.

X X X<sup>65</sup>

***No irreparable injury will be caused to the applicant***

Nonetheless, there is no urgent need for the writ to prevent irreparable injury. Petitioner contends that the injunction should be granted, lest the undesirable consequences of *Agan v. Philippine International Air Terminals Co.*<sup>66</sup> and *Information Technology Foundation of the Philippines, et al. v. COMELEC, et al.*<sup>67</sup> recur. These cases are not applicable here. First, the facts of *Agan* and *Information Technology* are different from the present case. In fact, both these cases are neither for declaratory relief nor for injunction. Further, it is not petitioner's responsibility to patronize the Court. Whether history will repeat itself<sup>68</sup> is neither for the Court nor for petitioner to speculate. One of the Court's constitutional duties is to settle actual controversies involving rights which are legally demandable and enforceable.<sup>69</sup> If it were to unduly burden itself with an analysis of the effects of a decision rather than an application of the law, it may shirk its avowed duty and endanger the fundamental principle of separation of powers.

<sup>65</sup> *Id.* at 372-373.

<sup>66</sup> 465 Phil. 545 (2004).

<sup>67</sup> 810 Phil. 400 (2017).

<sup>68</sup> *Rollo*, p. 33.

<sup>69</sup> 1987 Constitution, Art. VIII, Sec. 1.

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Here, it bears noting that when the DOTC-SBAC posted a new Invitation to Bid for the project on December 24, 2010,<sup>70</sup> the DOTC-SBAC allowed previous participants who purchased the original bid documents, like RDMSI and AMPI, to be issued new sets of bid documents upon presentation of their receipt for the previous bid documents.<sup>71</sup> The Invitation to Bid reads:

x x x x

3. A complete set of Bidding Documents may be purchased by Interested Bidders on 15 January to 15 February 2011 from the address above and upon payment of a non-refundable fee for the Bidding Documents in the amount of P80,000.00. Only those who submitted an LOI shall be allowed to purchase the bid documents. However, previous participants to the bidding of the aforementioned project who have purchased bid documents shall likewise be issued the new set of bid documents upon presentation of the receipt paid for the previous bid documents.<sup>72</sup>

Thus, RDMSI and AMPI preserved their right as prospective bidders to still participate in the bidding. Even assuming that the RTC eventually declares the invalidity of D.O. No. 2010-36 and S.O. No. 2011-181, RDMSI and AMPI would have still been able to join the bidding process with either of them having emerged as the winning bidder. Whatever injury petitioner might suffer as a result thereof is not irreparable. Accordingly, this circumstance negates the urgency for the writ.

Petitioner argues that it stands to lose hundreds of millions and billions of pesos should the bidding process be allowed to continue only to be nullified eventually.<sup>73</sup> Aside from failing to explain how it will suffer such a huge amount of monetary loss, this Court has ruled that easily quantifiable damages cannot be considered grave and irreparable. Within the context of an injunctive writ, damages are considered irreparable when “there is no standard by which their amount can be measured with reasonable accuracy.”<sup>74</sup> Hence:

As stated, petitioner is not the only health service provider in the region. Hence, the suspension of its PhilHealth accreditation and the imposition of fine against it will not, in any way, hamper the delivery of health care services to the public, contrary to what the petitioner would want to impress to this Court. More importantly, it should be stressed that the subject PhilHealth Resolution merely imposes a fine and the suspension of the hospital's PhilHealth accreditation *not* the closure of the hospital. Hence, neither will petitioner's health care services be forestalled by the implementation of the penalty sought to be restrained. If at all, it is merely the members' benefits which may temporarily be hampered when the penalty is implemented. Such damage, if any, is easily quantifiable and, as

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<sup>70</sup> *Rollo*, p. 56.

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

<sup>72</sup> *Id.* at 87.

<sup>73</sup> *Id.* at 34.

<sup>74</sup> *Tiong Bi, Inc. (owner of Bacolod Our Lady of Mercy Specialty Hospital) v. Philippine Health Insurance Corporation*, G.R. No. 229106, February 20, 2019, 894 SCRA 204, 212-213.

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such, cannot be considered as “grave and irreparable injury” as contemplated under the law. The Court[,] in *Heirs of Melencio Yu v. Court of Appeals*, citing *Social Security Commission v. Bayona*[,] explained the concept of irreparable damage or injury as follows:

Damages are irreparable within the meaning of the rule relative to the issuance of injunction where there is no standard by which their amount can be measured with reasonable accuracy. “An irreparable injury which a court of equity will enjoin includes that degree of wrong of a repeated and continuing kind which produce hurt, inconvenience, or damage that can be estimated only by conjecture, and not by any accurate standard of measurement.” x x x

Here, the only possible injury which may be perceived is easily subject to mathematical computation.<sup>75</sup>

Petitioner has itself admitted that it will lose pesos in the billions – a damage that may easily be subject to mathematical computation. Consequently, its perceived damage is not “that degree of wrong of a repeated and continuing kind which produce[s] hurt, inconvenience, or damage that can be estimated only by conjecture, and not by any accurate standard of measurement.”<sup>76</sup>

Petitioner contends that the CA’s Resolution dissolving the writs of preliminary injunction issued by the RTC practically rendered the proceedings before it useless.<sup>77</sup> It did not. The RTC still has the paramount issue to consider – whether D.O. No. 2010-36 and S.O. No. 2011-181 are valid. Assuming the RTC declares the invalidity of both D.O. No. 2010-36 and S.O. No. 2011-181, this simply means that all subsequent biddings should be conducted under the old bidding process. Truly, petitioner repeatedly reiterates that the DOTC illegally abolished the LTO-BAC by its establishment of the DOTC-SBAC and the BAC created by virtue of S.O. No. 2011-181.<sup>78</sup> This is an issue that has yet to be resolved by the RTC in the main petition.

In a last-ditch attempt to secure a grant of its petition, petitioner stresses that the petition for declaratory relief before the RTC will be rendered *functus officio* because by the CA’s Orders, respondents are permitted to breach and violate petitioner’s alleged rights.<sup>79</sup> The argument is unfounded. Suffice it to state, what Section 1, Rule 63 of the Rules of Court requires is merely the bringing of the action before a breach occurs. Moreover, Section 6 of the same Rule provides an alternative should a breach occur before termination of the case.

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<sup>75</sup> *Id.* (Citations omitted)

<sup>76</sup> *Id.* at 213. (Citations omitted)

<sup>77</sup> *Rollo*, p. 35.

<sup>78</sup> *Id.* at 36.

<sup>79</sup> *Id.*

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Finally, petitioner points out that respondents failed to prove their right to the extraordinary remedy of *certiorari*.<sup>80</sup> In this regard, the CA has already ruled that since the RTC's Orders are interlocutory, the aggrieved party is permitted to question them through a special civil action for *certiorari* under Rule 65 of the Rules of Court.

In sum, "an application for injunctive relief is construed strictly against the pleader."<sup>81</sup> As a writ of preliminary injunction has far-reaching consequences, the RTC should have been more circumspect in issuing it.<sup>82</sup> As the Court has forewarned in *Manila International Airport Authority*:

Considering the far-reaching effects of a writ of preliminary injunction, the trial court should have exercised more prudence and judiciousness in its issuance of the injunction order. We remind trial courts that while generally the grant of a writ of preliminary injunction rests on the sound discretion of the court taking cognizance of the case, *extreme caution must be observed in the exercise of such discretion*. The discretion of the court *a quo* to grant an injunctive writ must be exercised based on the grounds and in the manner provided by law. Thus, the Court declared in *Garcia v. Burgos*:

It has been consistently held that there is no power the exercise of which is more delicate, which requires greater caution, deliberation and sound discretion, or more dangerous in a doubtful case, than the issuance of an injunction. It is the strong arm of equity that should never be extended unless to cases of great injury, where courts of law cannot afford an adequate or commensurate remedy in damages.

Every court should remember that an injunction is a limitation upon the freedom of action of the defendant and should not be granted lightly or precipitately. *It should be granted only when the court is fully satisfied that the law permits it and the emergency demands it.* (Italics supplied)

The records before the Court do not reveal a clear and unmistakable right on the part of K Services that would entitle the latter to the protection of an injunctive writ.<sup>83</sup>

True, the issuance of the writ rests on the RTC's sound discretion.<sup>84</sup> Yet, in exercising such discretion, the RTC must also exercise extreme caution.<sup>85</sup>

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<sup>80</sup> *Id.* at 33.

<sup>81</sup> *St. James College of Parañaque, et al. v. Equitable PCI Bank*, 641 Phil. 452, 471 (2010).

<sup>82</sup> *Manila International Airport Authority v. Court of Appeals, et al.*, 445 Phil. 369, 383 (2003).

<sup>83</sup> *Id.* at 383-384. (Citations omitted)

<sup>84</sup> *Id.* at 383.

<sup>85</sup> *Id.*

Finally, this Court deems it apt to remind the parties that “the discretion to accept or reject any bid, or even recall the award thereof, is of such wide latitude that the courts will not generally interfere with the exercise thereof by the executive department, unless it is apparent that such exercise of discretion is used to shield unfairness or injustice.”<sup>86</sup>

This Court finds that there are no substantial reasons to warrant a review of the assailed Decision and Resolution. Section 6, Rule 45 of the Rules of Court states that a review is discretionary – it is not a matter of right and will be granted only when there are special and important reasons therefor. This Court emphasized the discretionary nature of a Rule 45 petition in *Kumar v. People*,<sup>87</sup> where it said that the “reasons invoked for review must be of distinctly significant consequence and value.”<sup>88</sup> When the petitioner fails to show that the court, which rendered the assailed ruling, has so wantonly deviated from settled procedural norms or otherwise enabled such deviation, the Court may decline to review a case.<sup>89</sup>

Here, petitioner failed to show that the CA wantonly deviated from procedural norms when it rendered its assailed rulings.

**ACCORDINGLY**, the instant petition is **DENIED**. The Decision dated September 28, 2012 and the Resolution dated March 6, 2013 of the Court of Appeals in CA-G.R. SP No. 125203 are **AFFIRMED**. The Orders dated February 16, 2011 and June 1, 2012 of the Regional Trial Court, Branch 96, Quezon City in Civil Case No. Q-10-68555 are **REVERSED** and **SET ASIDE**. The Writs of Preliminary Injunction issued pursuant to said Orders are **DISSOLVED**.

**SO ORDERED.**

  
**JHOSEP V. LOPEZ**  
Associate Justice

**WE CONCUR:**

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

<sup>86</sup> *Hutchison Ports Philippines Ltd. v. Subic Bay Metropolitan Authority, et al.*, *supra* note 44, at 860.

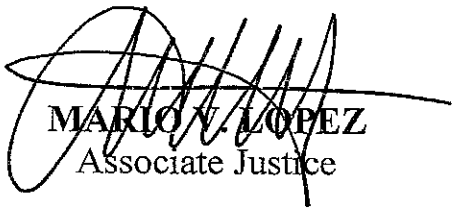
<sup>87</sup> G.R. No. 247661, June 15, 2020.

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

<sup>89</sup> *Id.*




  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**MARIO V. LOPEZ**  
Associate Justice

  
**ANTONIO T. KHO, JR.**  
Associate Justice

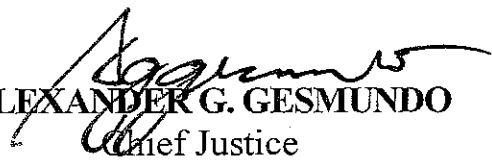
**ATTESTATION**

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

  
**MARVIC M.V. F. LEONEN**  
Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

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

  
**ALEXANDER G. GESMUNDO**  
Chief Justice