

SECOND DIVISION

[G.R. No. 229106, February 20, 2019]

TIONG BI, INC. [OWNER OF BACOLOD OUR LADY OF MERCY SPECIALTY HOSPITAL], PETITIONER, VS. PHILIPPINE HEALTH INSURANCE CORPORATION, RESPONDENT.

DECISION

REYES, J. JR., J.:

Before us is a petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court, assailing the Resolutions dated August 10, 2016^[2] and January 12, 2017^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 144704, denying Tiong Bi, Inc.'s (petitioner) Extremely Urgent Motion for Immediate Issuance of Temporary Restraining Order.

The instant petition is rooted from charges of "Padding of Claims" and "Misrepresentation by Furnishing False and Incorrect Information" against petitioner before respondent Philippine Health Insurance Corporation (PhilHealth). These charges, in turn, stemmed from similar charges against two PhilHealth-accredited eye surgeons, who used petitioner's facilities and the services of its staff to attend to the needs of said physicians.^[4]

Briefly, the charges of fraudulent benefit claims include padding of prescriptions and recommending of medicines and supplies such as oxygen and intravenous fluids not needed by the patients nor actually provided by the hospital or the doctors.^[5]

In a Decision dated August 1, 2008, PhilHealth's Arbitration Department dismissed the charges against the two doctors for lack of merit. This Decision was affirmed by the PhilHealth Board.^[6]

On the other hand, in PhilHealth Board Resolution No. 2040, S. 2016 dated February 24, 2016, PhilHealth affirmed with modification the July 30, 2010 Decision of Arbitrator Darwin G. De Leon, finding petitioner guilty, for the second time, of a fraudulent offense. In accordance with the Revised Internal Rules of the PhilHealth Board on Appealed Administrative Cases, the reduced penalty of six months and one day suspension of accreditation and a fine of P10,000.00 for each count of Padding of Claims for a total of P170,000.00 were imposed upon petitioner. It was further ordered that the restitution for any payment made by PhilHealth for the claim/s subject of the case be made by petitioner or be charged and deducted from the proceeds of any pending or future claims of petitioner with PhilHealth. Lastly, petitioner was sternly warned that a repetition of the same or similar offense shall be dealt with more severely.^[7]

Aggrieved, petitioner appealed the said PhilHealth Resolution before the CA through

a petition for *certiorari* under Rule 43 of the Rules of Court. Petitioner likewise filed therein an Extremely Urgent Motion for Immediate Issuance of Temporary Restraining Order (TRO). Petitioner basically argues that the PhilHealth Resolution was erroneous for allegedly being based on a wrong case, which was said to be heard by a different arbiter. Also, petitioner insists that the charges against the two doctors were dismissed for lack of merit, the charges against it which were grounded upon the same set of facts should likewise be dismissed.^[8]

As for the motion for issuance of TRO, petitioner cited the general concepts of public interest, public health, and safety to support its claim of irreparable injury and urgency. Specifically, petitioner averred that it is one of the biggest health providers in Negros and the threatened closure of its hospital by virtue of the subject PhilHealth Resolution would impede the health measures it can provide to contain certain epidemic in the country. According to petitioner, the flawed PhilHealth Resolution put in grave peril the safety, life and health of the patients confined in its hospital.^[9]

In its August 10, 2016 Resolution,^[10] the CA denied petitioner's motion for issuance of TRO, finding no actual existing right to be protected on the part of the petitioner nor the possibility of irreparable injury.

In its January 12, 2017 Resolution,^[11] the CA likewise denied petitioner's motion for reconsideration of the August 10, 2016 Resolution.

Notably, the main case remains to be pending with the CA for resolution.

Petitioner now comes before this Court through the instant petition for review on *certiorari* under Rule 45 of the Rules of Court on the pretext that it is grounded on pure questions of law. Specifically, petitioner contends that the CA erred in refusing to issue an injunctive writ, endangering, thus, public safety and exposing the public to the hazard and risk of a health crisis. Reiterating its argument in its pending appeals before the CA, petitioner argues that the threatened closure of its hospital would put the safety, life, and health of its confined patients to grave peril. Further, petitioner avers that closing a major health service provider such as petitioner's hospital, in a region with few hospitals, would create a crisis.

Petitioner also assails in the instant petition the subject PhilHealth Resolution, pointing out that it was based on a wrong case; that it has no factual and legal bases; and that it was based merely on surmises, guesswork, and assumptions, among others.

We resolve.

At the outset, it should be pointed out that the petitioner resorted to an improper remedy before this Court. Section 1(c), Rule 41 of the same Rules expressly provides that no appeal may be taken from an interlocutory order. An interlocutory order, as opposed to a final judgment or order, is one that does not dispose of the case completely but leaves something to be decided upon. Petitioner resorted to a petition for review on *certiorari* under Rule 45 of the Rules of Court to question the denial of its motion for issuance of an injunctive relief. An order granting or denying an application for a TRO or a preliminary injunction is interlocutory in nature and,

thus, unappealable. The proper remedy is to file a petition for *certiorari* and/or prohibition under Rule 65 of the same Rules.^[12]

Furthermore, a close reading of the arguments raised by the petitioner would readily show that they are factual in nature. While petitioner is ascribing grave abuse of discretion on the part of the CA in denying its motion for TRO, it basically seeks to enjoin the implementation of the PhilHealth Resolution questioned before the CA for allegedly being unfounded and erroneous. Undoubtedly, such endeavor would require an examination of evidence. Petitioner is questioning before this Court the exact same PhilHealth Resolution being questioned before the CA at present and on the same grounds raised therein. It is basic that a petition for review under Rule 45 of the Rules of Court may raise only questions of law. This Court is not a trier of facts and we are not duty-bound to re-examine evidence especially when the court *a quo* had not yet even ruled on the merits of the main case.^[13] To rule otherwise would effectively preempt the proceedings before the CA.

The present petition may, thus, be dismissed outright for being an improper remedy.^[14]

At any rate, even if we treat this case as a petition under Rule 65, it shall still fail for lack of merit.

The grant or denial of a TRO or an injunctive writ rests on the sound discretion of the court taking cognizance of the case, since the assessment and evaluation of evidence towards that end involves findings of facts left to the said court for its conclusive determination. Verily, the exercise of judicial discretion by a court in injunctive matters must not be interfered with, unless there is grave abuse of discretion.^[15]

The only issue, therefore, that confronts us is limited to the matter of whether the CA's denial of petitioner's motion for issuance of TRO was tainted with grave abuse of discretion.

In the issuance or denial of an injunctive writ, grave abuse of discretion implies a capricious and whimsical exercise of judgment equivalent to lack of jurisdiction; or the exercise of power in an arbitrary or despotic manner by reason of passion, prejudice or personal aversion amounting to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.^[16]

In this case, the Court finds no grave abuse of discretion on the part of the CA in denying the issuance of a TRO.

To be entitled to the injunctive writ, petitioner must show that (1) there exists a clear and unmistakable right to be protected; (2) this right is directly threatened by an act sought to be enjoined; (3) the invasion of the right is material and substantial; and (4) there is an urgent and paramount necessity for the writ to prevent serious and irreparable damage.^[17]

As correctly ruled by the CA, essential for the grant of the injunctive relief is the existence of an urgent necessity to prevent serious damage. A TRO is issued only if