

## **THIRD DIVISION**

**[ G.R. No. 137149, July 28, 1999 ]**

**ISMAEL A. MATHAY, JR., IN HIS CAPACITY AS MAYOR OF  
QUEZON CITY, PETITIONER, VS. FELT FOODS, INC.,  
RESPONDENT.**

### **R E S O L U T I O N**

**GONZAGA-REYES, J.**

This is a petition for review of the decision rendered by the Court of Appeals in CA-G.R. SP No. 49187 dated October 20, 1998 sustaining the orders issued by Branch 84 of the Regional Trial Court of Quezon City dated March 24, 1998 and July 20, 1998 which granted the issuance of a writ of preliminary mandatory injunction to compel herein petitioner to allow the respondent to re-open and operate its restaurant and cocktail lounge "Club Georgio" beyond the expiration of its temporary business permit.

On May 14, 1997 petitioner issued a temporary business permit valid until December 31, 1997 in favor of the respondent to operate its business "Club Georgio". Sometime in November 1997 there were police reports that the respondent violated the terms of the business permit e.g., lack of sanitary permit, occupational and health permits of its employees. Thus, on November 27, 1997 petitioner ordered the closure of the said establishment and ordered the City Legal Department to investigate the respondent's reported violations of the terms of its business permit. Due notice was sent to the respondent through its general manager, Mr. Amil Yap, to explain his side but Mr. Yap refused or failed to appear before the investigating body. Upon a finding that there were violations of the terms of the business permit the petitioner cancelled it on December 15, 1997. On December 31, 1997 respondent's temporary business permit expired. On February 16, 1998 respondent filed an action with the Regional Trial Court of Quezon City to annul the petitioner's closure order alleging that the said order was issued without due process and prayed for the issuance of a writ of preliminary mandatory injunction to compel petitioner to allow respondent to re-open and resume operation of its business. Respondent also alleged that the employees of the club and its stockholders will suffer irreparable damage from the continued closure of the business. On February 25, 1998 petitioner filed a motion to dismiss the complaint on the ground that the cause of action has been mooted by the expiration of the complainant's temporary business permit on December 31, 1997; petitioner argued that the expiration of the said permit divested respondent of any legal basis to compel the petitioner to re-open the business establishment. On the same day, petitioner received notice of the questioned order dated February 23, 1997 issued by the regional trial court granting the respondent's prayer for the issuance of a writ of preliminary mandatory injunction upon posting of a bond in the amount of one hundred thousand pesos. The trial court upheld respondent's claim of irreparable damage due to the continued closure of the business as basis for the issuance of the