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THIRD DIVISION

[G.R. No. 233646; June 16, 2021]

FLORENCIO T. MALLARE, ARISTOTLE Y. MALLARE and MELODY TRACY MALLARE, *Petitioners*, *v.* **A&E INDUSTRIAL CORPORATION,** *Respondent*.

D E C I S I O N

DELOS SANTOS, *J.*:

Before the Court is a Petition for Review on *Certiorari* [With Prayer for Issuance of Temporary Restraining Order (TRO) and Writ of Preliminary Injunction (WPI)][1] under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision[2] dated August 18, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 143728. The CA annulled and set aside the Order[3] dated October 6, 2015 of the Regional Trial Court (RTC) of Manila, Branch 46, which denied the application for the issuance of a WPI incorporated in the *Verified Complaint (With Application for the Issuance of a Writ of Preliminary Injunction)*[4] for injunction, *quo warranto*, and damages filed by respondent A&E Industrial Corporation (A&E).

The present controversy stemmed from an intra-corporate dispute between the two factions of stockholders of A&E: (1) petitioners Florencio T. Mallare (Florencio), Aristotle Y. Mallare (Aristotle), and Melody Tracy Mallare (Melody) who are collectively known as the Mallare Group; and (2) Anthony Hwang (Anthony), Evelyn Hwang (Evelyn), Elizabeth Lim Tong (Elizabeth), Stefan Hugo Hwang (Stefan), and Sarah Patricia Hwang (Sarah) who are collectively referred to as the Hwang Group.

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[1] *Rollo* (Vol. I), pp. 3-77.

[2] Id. at 78-93; penned by Associate Justice Rosmari D. Carandang (now a Member of the Court), with Associate Justices Stephen C. Cruz and Carmelita Salandanan-Manahan, concurring.

[3] *Rollo* (Vol. II), pp. 473-480; penned by Presiding Judge Rainelda H. Estacio-Montesa.

[4] Id. at 429-470. Docketed as Civil Case No. 14131241.

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The Factual Background

A&E is a domestic corporation principally engaged in the management and operation of a real estate business. It was incorporated on December 16, 1975 by Florencio, Jane Mallare[5] (Jane), Anthony, Evelyn, and Pacencia Mallare. Anthony is Evelyn's husband and the son of Jane from a former partner. Jane married Florencio with whom she had one (1) child named Aristotle, who is married to Melody.[6]

In its general information sheet (GIS) dated March 14, 2011, A&E listed the following names as its stockholders:

NAME	SHARES SUBSCRIBED	AMOUNT PAID
Florencio T. Mallare	117,500	₱1,175,000.00
Jane Y. Mallare	120,000	₱1,200,000.00
Anthony Edmund Hwang	118,750	₱1,187,500.00
Evelyn L. Hwang	75,000	₱750,000.00
Aristotle Y. Mallare	118,750	₱1,187,500.00
Melody Tracy Mallare	75,000	₱750,000.00
Total	625,000	₱6,250,000.00

Meanwhile, A&E's directors and officers are:

DIRECTORS	CORPORATE POSITION
Florencio T. Mallare	President
Jane Y. Mallare	Chief Finance Officer and Corporate Secretary
Anthony Edmund Hwang	Vice President
Aristotle Y. Mallare	Chief Executive Officer

On December 9, 2011, Jane died and the positions of corporate secretary and CFO were left vacant. [7]

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[5] "Jane Yu," "Jane Yu Mallare," and "You Yunn Chyo" in some parts of the records.

[6] *Rollo* (Vol. I), pp. 78-79.

[7] Id. at 79-80.

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Version of the Mallare Group

After Jane passed away, Aristotle was designated as A&E's interim corporate secretary.[8]

A&E failed to hold a stockholders' meeting for the year 2012 due to lack of quorum.[9] Consequently, Florencio, Aristotle, Melody, Anthony, and Evelyn remained board members and officers of A&E in a holdover capacity.[10]

On July 5, 2012, Florencio and Aristotle filed a *Petition for the Judicial Settlement of Intestate Estate of the Late Jane Mallare* before the RTC of Quezon City. They included therein the 120,000 shares of Jane in A&E. During the pendency of the petition, the majority of the remaining directors continued to operate the company.[11]

On August 13, 2012, Anthony filed a *Petition for the Settlement of Intestate Estate of Jane Yu Mallare and Issuance of Letters Administration* before the RTC of Quezon City. It likewise included Jane's 120,000 shares. Anthony's petition was later denied on the ground of *litis pendencia*.[12]

On February 23, 2013, A&E conducted its annual stockholders' meeting attended by the Mallare Group, its legal counsel Alejandro Gaston, and Atty. Lalaine Monserate as independent observer from the Securities and Exchange Commission (SEC).[13] However, the meeting was adjourned for failure to constitute a quorum.[14]

In his Judicial Affidavit, Aristotle stated that only 49.8% of the shares were represented at the stockholders' meeting, broken down as follows: 19% (Aristotle), 18.8% (Florencio), and 12% (Melody). He explained that he used the GIS dated May 31, 2012 to determine

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[8] Id. at 8.

[9] Id.

[10] Id. at 9.

[11] Id.

[12] Id.

[13] Id. at 10.

[14] Id. at 11.

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the presence of the quorum.[15] He also averred that despite notices sent to Anthony and Evelyn, who represent 19% and 12% of A&E's subscribed capital, respectively, they failed to attend the meeting.[16]

On April 1, 2013, Aristotle, in his capacity as interim corporate secretary, filed A&E's 2013 GIS, indicating therein that there was no quorum in the February 23, 2013 stockholders' meeting and carrying over the names listed in the 2012 GIS as A&E's directors and officers for 2013.[17]

Florencio, Aristotle, and Melody alleged that in view of the stockholders' failure to hold the said meeting and vote for the new members of the board, they continued to exercise the functions of their office as A&E's 2013 directors and officers on the basis of a holdover authority.[18]

Sometime in April 2013, Aristotle found out that the Hwang Group also conducted a separate stockholders' meeting.[19]

On January 6, 2014, A&E, purportedly representing majority of the stockholders and the board of directors, filed a *Verified Complaint*[20] for injunction, *quo warranto*, and damages with an application for the issuance of a TRO and/or WPI before the RTC Manila.[21]

Version of A&E (represented by the Hwang Group as its directors and officers)

Upon Jane's death, Anthony was designated as A&E's corporate secretary, chief financial officer and treasurer in a meeting of the board of directors held on December 22, 2011.[22]

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[15] Id. at 11-12.

[16] Id. at 14.

[17] Id. at 15.

[18] Id.

[19] Id.

[20] Supra note 4.

[21] *Rollo* (Vol. I), p. 16.

[22] See Comment/Opposition [To Petition for Review on Certiorari (With Prayer for Issuance of Temporary Restraining Order and Writ of Preliminary

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On March 16, 2012, Anthony filed A&E's GIS for the year 2011, which indicated the corporate officers, as follows:

DIRECTORS	CORPORATE OFFICERS
Florencio T. Mallare	President
Anthony Edmund Hwang	Chief Finance Officer/Corporate Secretary
Aristotle Y. Mallare	Chief Executive Officer

A&E did not hold an annual stockholders' meeting for the year 2012. Thus, the designated officers and directors of A&E continued holding their positions in a holdover capacity.[23]

On May 5, 2012, the Mallare group turned antagonistic toward Anthony and committed the following acts:

1. The Mallare group prevented Anthony from having any access to the files, records, and documents of A&E;[24]
2. The Mallare group did not secure Anthony's consent, approval, or signature for A&E's transactions;[25]
3. On May 22, 2012, Florencio and Aristotle executed a Notice of Adverse Claim, alleging that Anthony had misrepresented himself as A&E's corporate secretary when he submitted the 2011 GIS to the SEC;[26]
4. On May 31, 2012, Florencio wrote to the SEC, claiming that A&E's GIS filed on March 16, 2012 and signed by Anthony is false. He also submitted a GIS signed by Aristotle, stating that no annual stockholders' meeting was held in February 2012;[27] and

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Injunction) dated 7 September 2017] of A&E Industrial Corporation; *rollo* (Vol. III), pp. 793-904.

[23] Id. at 806.

[24] Id.

[25] Id.

[26] Id. at 807.

[27] Id.

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5. On July 13, 2012, Florencio filed a criminal complaint for perjury, estafa, and other forms of swindling against Anthony in the Office of the City Prosecutor of Quezon City.[28]

On November 26, 2012, Anthony also filed a criminal case for perjury against Florencio and Aristotle.[29] Thereafter, he executed three separate Deeds of Assignment of Shares of Stock in favor of Elizabeth, Stefan, and Sarah, assigning to them the right to vote one share of stock each in A&E.[30]

On February 13, 2013, Anthony sent out, by registered mail, notices of A&E's annual stockholders' meeting.[31]

On February 23, 2013, A&E conducted its annual stockholders' meeting, resulting in the election of a new set of directors and officers.[32] A total of 313,750 shares or 50.2% of the total outstanding shares of A&E voted, *viz.*:

Stockholders Present:	**Shares:**
Anthony Edmund Hwang	118,747
Evelyn L. Hwang	75,000
Elizabeth Lim Tong	1
Stefan Hugo Hwang	1
Sarah Patricia Hwang	1
Stockholders Represented:	**Shares:**
Jane Y. Mallare	120,000
Total	313,750
Total No. of Shares Outstanding	625,000
Percentage of Shares Present and Outstanding	50.20%

The shares of Jane were represented by Anthony by virtue of the *Assignment of Voting Rights* dated May 17, 2011 executed by Jane.[33]

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[28] Id.

[29] Id.

[30] Id. at 812.

[31] Id. at 811.

[32] Id. at 813.

[33] Id.

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During the stockholders' meeting, the Hwang Group was unanimously elected as the new members of A&E's board of directors.[34] Meanwhile, A&E's newly elected officers were Anthony as corporate secretary, Evelyn as chairperson/president, and Elizabeth as treasurer.[35] These were duly reported to the SEC and reflected in A&E's GIS dated February 25, 2013.[36] This notwithstanding, Florencio, Aristotle, and Melody have continued to misrepresent themselves as directors and officers of A&E, including but not limited to:

1. Filing of a false GIS;[37]
2. Demanding from A&E's board of directors to cease and desist from performing their functions;[38]
3. Interfering with corporate matters, including the collection of lease payments;[39]
4. Disbursing and appropriating corporate funds for personal use;[40]
5. Unauthorized opening of a new bank account in the name of A&E;[41]
6. Continued possession of corporate office and properties to the exclusion of A&E's duly elected board of directors and officers;[42] and
7. Harassment of A&E employees.[43]

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[34] Id. at 814.

[35] Id.

[36] Id.

[37] Id. at 816.

[38] Id. at 816-817.

[39] Id. at 817-819.

[40] Id. at 819-821.

[41] Id. at 821-823.

[42] Id. at 823.

[43] Id. at 824.

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The Ruling of the RTC

On January 23, 2014, the RTC of Manila, Branch 46, issued an Order,[44] denying A&E's application for a TRO. It declared that the initial evidence was insufficient to show that the circumstances surrounding the case were of extreme urgency and that A&E would suffer grave injustice and irreparable injury.[45]

In an Order[46] dated October 6, 2015, the RTC enunciated that the case for injunction, *quo warranto*, and damages should move forward without issuing a WPI. The dispositive portion of the Order reads:

WHEREFORE, premises considered the prayer for the issuance of the Writ of Preliminary Injunction is hereby **DENIED**.

Let a NOTICE OF PRE-TRIAL be issued to the parties.

SO ORDERED.[47]

The RTC ratiocinated that considering the evidence presented during the hearing for the issuance of the writ, it was discernable that resolving the intricacies of the requisites of preliminary injunction would also technically resolve the merits of the main case.[48]

Dissatisfied, A&E filed a Petition for *Certiorari*[49] under Rule 65 of the Rules of Civil Procedure, ascribing grave abuse of discretion on the part of the RTC for denying its application for the issuance of WPI.

On July 11, 2016, the RTC, Branch 92, Quezon City, issued an Order, appointing Florencio as special administrator of the estate of the late Jane Mallare.[50]

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[44] *Rollo* (Vol. II), pp. 471-472.

[45] Id. at 472.

[46] Supra note 3.

[47] *Rollo* (Vol. II), p. 480.

[48] Id. at 478.

[49] *Rollo* (Vol. III), pp. 905-1005.

[50] *Rollo* (Vol. I), p. 39.

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The Ruling of the CA

On August 18, 2017, the CA granted the petition. The dispositive portion of the CA Decision reads:

> **WHEREFORE, premises considered**, the instant petition is **GRANTED**. There being grave abuse of discretion on the part of public respondent, the assailed Order dated October 6, 2015 is hereby **ANNULLED** and **SET ASIDE**.
>
> Accordingly, let a **WRIT OF PRELIMINARY INJUNCTION** be issued, as it is hereby issued, enjoining herein private respondents from usurping the office and position of the Board of Directors and officers of A&E Industrial Corporation elected on February 23, 2013 and from misrepresenting to third parties and to the public as such and from possessing and disbursing corporate funds, properties and assets of A&E Industrial Corporation, conditioned upon the posting of a bond by petitioner A&E-Hwang in the amount of Two Hundred Thousand Pesos (Php200,000.00).
>
> The proceedings in the lower court should continue with dispatch.
>
> **SO ORDERED**.[51]

The CA held that the issuance of the WPI would not result in a prejudgment of the main case. It emphasized that the grant of preliminary injunction is provisional and that its purpose is only to preserve the *status quo* to protect the interests of A&E, represented by the Hwang Group as its duly elected board members and officers, during the pendency of the main action. It noted that the fact that Florencio, Aristotle, and Melody are holdover directors and officers of A&E has been supervened by the holding of the annual stockholders' meeting on February 23, 2013, which is given presumptive validity until nullified.[52]

The Arguments of the Parties

The petitioners maintain that any judgment, order, or pronouncement relating to the main case for *quo warranto*, rendered or issued during its pendency, would be tantamount to its resolution without trial.[53] They argue that the issue as to who has

[51] Id. at 92.

[52] Id. at 88-91.

[53] Id. at 22.

the authority to act as board of directors and officers and exercise control over the affairs of A&E must be resolved in the main case for *quo warranto* and should therefore not be disposed of through the simple expedient of issuing a WPI.[54] They regarded the CA's pronouncement – that the February 23, 2013 stockholders' meeting is presumed valid – as having no legal basis since it is only the executor or administrator of Jane's estate who is vested with the legal title to the stock and entitled to exercise voting rights. They also postulate that should the CA desire to preserve the *status quo*, the *status quo* should be based on the uncontested March 14, 2011 GIS of A&E because that was the last actual, peaceable, and uncontested situation that preceded the instant controversy.[55]

A&E, on the other hand, counters that the preliminary injunction sought and granted is merely a preventive remedy intended to preclude further injury to it caused by the simultaneous exercise of its corporate powers by separate groups. Thus, it can hardly be claimed that that the issuance of WPI had the effect of pronouncing, at the earliest opportunity, and without trial that the Hwang Group is the duly elected/appointed A&E directors and officers.[56] It contends that A&E's right to be protected from acts of misappropriation and from the dissipation of corporate funds warrants the issuance of WPI, regardless of whether the individuals committing such acts are legitimate directors or mere stockholders.[57] It asseverates that the CA correctly ruled on the presumptive validity of the February 23, 2013 election of the Board of Directors, stating that the petitioners failed to assail said election within the 15-day prescriptive period provided in the Interim Rules of Procedure for Intra-Corporate Controversies.[58] Thus, the petitioners are already

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[54] Id. at 26.

[55] Id. at 30-33.

[56] *Rollo* (Vol. III), p. 849.

[57] Id. at 853.

[58] **RULE 6**
ELECTION CONTESTS

SECTION 1. ***Cases covered.*** – The provisions of this rule shall apply to election contests in stock and non-stock corporations.

SEC. 2. ***Definition.*** – An election contest refers to any controversy or dispute involving title or claim to any elective office in a stock or non-stock

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barred from questioning the February 23, 2013 election of the Board of Directors and challenging the authority of the Hwang Group to institute the main case for *quo warranto* for A&E.[59]

The Issue

Whether the CA erred in its finding of grave abuse of discretion on the part of the RTC when it denied the application for the issuance of WPI.

The Court's Ruling

The petition is granted.

At the outset, the Court notes the conflicting factual findings and conclusion of the RTC and the CA that prompt us to peruse the records.

A preliminary injunction is an ancillary and interlocutory order granted at any stage of an action or proceeding prior to the judgment or final order, requiring a party or a court, agency, or a person to either: (1) refrain from a particular act or acts (preliminary prohibitory injunction); or (2) perform a particular act or acts (preliminary mandatory injunction).[60] It is a provisional

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corporation, the validation of proxies, the manner and validity of elections, and the qualifications of candidates, including the proclamation of winners, to the office of director, trustee or other officer directly elected by the stockholders in a close corporation or by members of a non-stock corporation where the articles of incorporation or by-laws so provide.

SEC. 3. *Complaint.* – In addition to the requirements in Section 4, Rule 2 of these Rules, the complaint in an election contest must state the following:

1. The case was filed within fifteen (15) days from the date of the election if the by-laws of the corporation do not provide for a procedure for resolution of the controversy, or within fifteen (15) days from the resolution of the controversy by the corporation as provided in its by-laws; and
2. The plaintiff has exhausted all intra-corporate remedies in election cases as provided for in the by-laws of the corporation.

[59] *Rollo* (Vol. III), p. 861.

[60] Section 1. *Preliminary injunction defined; classes*. — A preliminary injunction is an order granted at any stage of an action or proceeding 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. It may also require the performance of a

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remedy available under Rule 58 of the Rules of Court for the protection and preservation of the rights and interests of a litigant while the principal action is pending.

The main action filed by A&E is one for injunction, *quo warranto*, and damages to enjoin the Mallare Group from usurping the office, powers, and functions of the board of directors and officers of A&E and from misrepresenting themselves as such.[61] Among the reliefs prayed for in the complaint is the issuance of WPI, which has for its object the preservation of the *status quo* until the merits can be heard fully.[62]

Under Rule 58, Section 3 of the Rules of Court, an application for the issuance of WPI may be granted on any of the following grounds:

Section 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.

It bears stressing, however, that even if the factual circumstances of the case fall under any of the grounds enumerated in Rule 58, Section 3, a writ of injunction will only lie when the applicant

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particular act or acts, in which case it shall be known as a preliminary mandatory injunction.

[61] *Rollo* (Vol. II), p. 429.

[62] *Philippine Charity Sweepstakes Office v. TMA Group of Companies Pty Ltd.*, G.R. Nos. 212143, 225457 & 236888, August 28, 2019.

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has satisfactorily shown that: (1) he/she/it has a clear and unmistakable right to be protected; (2) there is a material and substantial invasion of such right; (3) there exists 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.[63] Of these, the most crucial is the existence of a right to be protected. The applicant must be able to establish a right *in esse* that is "clearly founded on or granted by law or is enforceable as a matter of law."[64]

In an application for an injunctive relief, "the right sought to be protected should at least be shown to exist *prima facie*."[65] *Prima facie* evidence refers to "such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense and, which if not rebutted or contradicted, will remain sufficient."[66]

In this case, the Court finds that the Hwang Group's right to be protected by injunction was not shown and that there was no basis for the grant of judicial protection.

To recall, the RTC denied the application for the injunctive relief upon its determination that its issuance would prejudge the main case for injunction, *quo warranto*, and damages. The CA, for its part, reversed the RTC's order of denial and issued the preliminary injunction. We quote the pertinent portions of the CA Decision:

> Based on the initial evidence, documentary and testimonial, presented by petitioner A&E-Hwang during the scheduled hearings for the application for preliminary injunction, petitioner A&E-Hwang was able to establish that it has a clear and legal right to be protected from the acts of herein private respondents representing themselves as corporate officers/ Board of A&E corporation. It was able to show that through the annual

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[63] *Municipality of Famy, Laguna v. Municipality of Siniloan, Laguna*, G.R. No. 203806, February 10, 2020.

[64] *Lim v. BPI Agricultural Development Bank*, 628 Phil. 601, 607 (2010).

[65] *United Coconut Planters Bank v. Lumbo*, 723 Phil. 314, 330 (2013).

[66] *Bicol Medical Center v. Botor*, 819 Phil. 447, 459 (2017).

stockholders meeting held on February 23, 2013, Anthony Edmund Hwang, Evelyn L. Hwang, Elizabeth Lim Tong, Stefan Hugo Hwang and Sarah Patricia Hwang were elected as Board of Directors of A&E corporation and that the elected officers were: Anthony Edmund Hwang, as Corporate Secretary; Evelyn L. Hwang, as Chairman/President; and Elizabeth Lim Tong, as Treasurer. Further, petitioner A&E-Hwang was able to establish that the required notices were sent to all stockholders of record and that the existence of a quorum was determined to validly proceed with the said annual stockholders meeting. As it appears, Anthony is the majority shareholder of A&E corporation. He has the right to vote 238,750 shares in A&E corporation: (1) 120,000 shares as assignee of Jane pursuant to the deed of *Assignment of Voting Rights*; and (2) 118,750 shares as owner thereof.

This Court gives presumptive validity to the elections held on February 23, 2013 wherein the Hwang group was the elected members of the Board and officers of A&E corporation. Until a determination by the public respondent as to the validity of the *Assignment of Voting Rights* executed by Jane in favor of her son, Anthony, *i.e.*, whether Anthony can validly exercise and vote said shares in the meeting, whether said deed of Assignment of Voting Rights is null and void, whether it is the Special Administrator who is entitled to vote said shares, among others — this Court thus recognizes, in the meantime, the Hwang group as the duly elected members of the Board and officers of A&E corporation. AaCTcI

Private respondents contend that the *Assignment of Voting Rights* is null and void on the ground of defect in its notarization, i.e., that the Notary Public did not notarize the said deed; that there is no record of said deed in the Notarial Section of the Office of the Clerk of Court of RTC, Quezon City; and that Anthony did not appear before the said Notary Public because he was not in the Philippines at that time. However, this alleged defect in the notarization of the *Assignment of Voting Rights* would not affect the genuineness of the signature of Jane as appearing in said deed, unless proven otherwise. Hence, in the meantime, this Court gives presumptive validity to the elections held on February 23, 2013, wherein Anthony had the right to vote 238,750 shares, including that of the 120,000 shares of Jane which the latter assigned to Anthony.

Be it noted that private respondents claim that they are the holdover directors and officers of A&E corporation, as reflected in the March 14, 2011 GIS of the corporation. There being no election held on 2012 and that the election held on February 23, 2013 did not push through for failure to muster a quorum, private respondents assert that they are

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exercising the functions of their office as directors and officers of the corporation in a holdover capacity. As such, they are the legitimate members of the Board and officers of A&E corporation.

However, the fact that they are holdover directors and officers of A&E has been supervened by the holding of the annual stockholders meeting on February 23, 2013, which, as We have explained above, is given presumptive validity until nullified. Moreover, records show that private respondents have not initiated any action to challenge the validity of the February 23, 2013 elections. While it appears that private respondents already knew of the said election on April 1, 2013, the fact remains that they have not assailed the same through any proceeding.

Thus, in the meantime, this Court makes a provisional determination, only for the purpose of resolving the propriety of issuing a writ of preliminary injunction, that it is the Hwang group which is the duly elected directors and officers of A&E corporation, and they are rightfully entitled to exercise the corporate powers of the corporation. This is the *status quo* – the last actual, peaceable and uncontested situation which preceded the instant controversy.[67] (Underscoring supplied)

Here, the Hwang Group consistently claims that it has clear and legal right to exercise corporate powers after having been elected as directors and officers during the February 23, 2013 stockholders' meeting of A&E, at which meeting a quorum was purportedly present. Anthony represented and voted the shares of stock registered in the name of his deceased mother Jane on the strength of the *Assignment of Voting Rights* executed by Jane in his favor.[68] The CA readily welcomed such assertion and accorded presumptive validity to the meeting and election notwithstanding the Mallare Group's legitimate objection as to Anthony's right to represent and vote Jane's shares. However, it is well to note that at the time the CA rendered its Decision and granted the injunctive relief, Florencio was already appointed special administrator of Jane's estate. Both the law and jurisprudence hold that in case of death of a shareholder, the executor or administrator duly appointed by the court is vested with the legal title to the share and entitled to vote it. The shares of stocks of the decedent are held by

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[67] *Rollo* (Vol. I), pp. 89-91.

[68] Id. at 40.

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the administrator or executor until a settlement and division of the estate is effected.[69]

Moreover, the CA appears to have overlooked the practical consequences of the stockholder's death on the determination of quorum in meetings. Under the Revised Corporation Code, the quorum in meetings is based on the presence of the stockholders or members entitled to vote representing the majority of the outstanding capital stock or majority of the members.[70] Similarly, for the purpose of board election, the law mandates that the owners of majority of the outstanding capital stock must be present, either in person or by proxy at the meeting held for the purpose.[71] A more circumspect analysis of the allegations and evidence of the parties would have convinced the appellate court that the Hwang Group's right or title is doubtful or disputed and that the issuance of injunctive writ is improper.

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[69] *Tan v. Sycip*, 530 Phil. 609, 625 (2006); see Section 54 of the Revised Corporation Code, which provides:

Section 54. *Right to Vote of Secures Creditors and Administrators*. - In case a stockholder grants security interest in his or her shares in stock corporations, the stockholder-grantor shall have the right to attend and vote at meetings of stockholders, unless the secured creditor is expressly given by the stockholder-grantor such right in writing which is recorded in the appropriate corporate books.

Executors, administrators, receivers, and other legal representatives duly appointed by the court may attend and vote on behalf of the stockholders or members without need of any written proxy. (Underscoring supplied)

[70] Section 51. *Quorum in Meetings*. - Unless otherwise provided in this Code or in the bylaws, a quorum shall consist of the stockholders representing a majority of the outstanding capital stock or a majority of the members in the case of nonstock corporations. (Underscoring supplied)

[71] Section 23. *Election of Directors or Trustees*.

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At all elections of directors or trustees, there must be present, either in person or through a representative authorized to act by written proxy, the owners of majority of the outstanding capital stock, or if there be no capital stock, a majority of the members entitled to vote. When so authorized in the bylaws or by a majority of the board of directors, the stockholders or members may also vote through remote communication or in absentia: Provided, That the right to vote through such modes may be exercised in corporations vested with public interest, notwithstanding the absence of a provision in the bylaws of such corporations. (Underscoring supplied)

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In *Bicol Medical Center v. Botor*,[72] the Court emphatically stressed that while a preliminary injunction is an ancillary remedy, it is issued only after due hearing, where both parties are given the opportunity to present their respective evidence. It is imperative that the evidence presented by both parties are considered. Courts cannot limit *prima facie* evidence merely to the evidence presented by the applicant and disregard the other party's evidence, especially when they considerably rebut and address the applicant's allegations for the issuance of preliminary injunction. Lamentably, that was what precisely happened in this case when the CA brushed aside the Mallare Group's evidence refuting the Hwang Group's claim that it has a clear and unmistakable right to be protected.

Finally, the RTC cannot be faulted for denying A&E's prayer for the issuance of WPI. The Court takes notice that the Hwang Group's allegations in its application for the injunctive relief were mere rehash and reiteration of their contentions in the principal action. Granting the injunctive relief would effectively substantiate the validity and soundness of the applicant's claim, thereby preempting the merits of the main action for injunction, *quo warranto*, and damages. It is an entrenched rule in our jurisdiction that "the courts should avoid issuing a writ of preliminary injunction that would in effect dispose of the main case without trial. Otherwise, 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."[73]

In light of the above disquisition, there being no right clearly founded on or granted by law or is enforceable as a matter of law, the dissolution of the writ of preliminary injunction issued by the CA in favor of A&E, represented by the Hwang Group, is warranted. To echo the Court's words in *Olalia v. Hizon*,[74] "there is no power the exercise of which is more delicate, which requires greater

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[72] Supra note 66.

[73] *Philippine Ports Authority v. Pier 8 Arrastre*, 512 Phil. 74, 90-91 (2005).

[74] *Olalia v. Hizon*, 274 Phil. 66 (1991).

caution, deliberation and sound discretion, or more dangerous in a doubtful case, than the issuance of an injunction."[75] "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."[76]

WHEREFORE, in view of the foregoing reasons, the Court **GRANTS** the Petition for Review on *Certiorari* of Florencio T. Mallare, Aristotle Y. Mallare, and Melody Tracy Mallare; **ANNULS and SETS ASIDE** the Decision dated August 18, 2017 of the Court of Appeals in CA-G.R. SP No. 143728; **DISSOLVES and LIFTS** the writ of preliminary injunction issued by the Court of Appeals; **ORDERS** the Regional Trial Court of Manila, Branch 46 to act on Civil Case No. 14131241 with dispatch; and **ORDERS** A&E Industrial Corporation to pay the costs of the suit.

SO ORDERED.

Leonen (Chairperson), Inting, and *J. Lopez, JJ.*, concur.

Hernando, J., on official leave.

APPEARANCES OF COUNSEL

Most Law for petitioners.
Villaraza & Angangco for respondent.

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[75] Id. at 75.

[76] Id.