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To justify the stay of immediate execution, the supervening events must have a direct effect on the matter already litigated and settled. Or, the supervening events must create a substantial change in the rights or relations of the parties which would render execution of a final judgment unjust, impossible or inequitable making it imperative to stay immediate execution in the interest of justice.[43]

We find that no such supervening events exist in this case so as to justify the stay of the execution of Civil Case No. 711.

WHEREFORE, the petition is hereby **DENIED** and the September 4, 2000 Decision and January 19, 2001 Resolution of the Court of Appeals in **CA-G.R. SP No. 52655** are **AFFIRMED.**

SO ORDERED.

Corona, C.J. (Chairperson), Bersamin, Villarama, Jr., and *Perlas-Bernabe,*[*] *JJ.,* concur.

THIRD DIVISION

[G.R. No. 171765. March 21, 2012]

THE INCORPORATORS OF MINDANAO INSTITUTE, INC. and THE BOARD OF TRUSTEES OF MINDANAO INSTITUTE, INC., represented by ENGR. VICTORIOSO D. UDARBE, *petitioners, vs.* **THE UNITED CHURCH OF CHRIST IN THE PHILIPPINES, acting through AGUSAN DISTRICT CONFERENCE UNITED CHURCH OF CHRIST IN THE PHILIPPINES, represented by REV. RODOLFO BASLOT,** *respondent.*

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[43] *Id.* at 162.

[*] Per Special Order No. 1207 dated February 23, 2012.

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SYLLABUS

1.REMEDIAL LAW; PROVISIONAL REMEDIES; PRELIMINARY INJUNCTION; DEFINED AND EXPLAINED. — The writ of preliminary injunction enjoined UCCP from taking control and management of MI and preventing petitioners from discharging their functions in its management. Thus, the Court shall confine itself only with the concerned writ and not the merits of the cases, which are still pending with the RTC. A preliminary injunction, being a preservative remedy for the protection of substantive rights or interests, is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. A preliminary injunction is defined under Section 1, Rule 58 of the Rules of Court, as follows: 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. x x x A preliminary injunction is a provisional remedy that a party may resort to in order to preserve and protect certain rights and interests during the pendency of an action. The objective of a writ of preliminary injunction is to preserve the *status quo* until the merits of the case can be fully heard. *Status quo* is the last actual, peaceable and uncontested situation which precedes a controversy.

2. ID.; ID.; ID.; REQUISITES. — [S]ection 3, Rule 58 of the Rules of Court, enumerates the grounds for the issuance of a writ of preliminary injunction x x x. Based on the foregoing provision, the Court in *St. James College of Parañaque v. Equitable PCI Bank* ruled that the following requisites must be proved before a writ of preliminary injunction will issue: (1) The applicant must have a clear and unmistakable right to be protected, 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.

3. ID.; ID.; ID.; THE WRIT MAY BE ISSUED ONLY UPON CLEAR SHOWING OF AN ACTUAL EXISTING RIGHT TO BE PROTECTED DURING THE PENDENCY OF THE PRINCIPAL ACTION; ISSUANCE OF INJUNCTIVE WRIT

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NOT PROPER WHERE COMPLAINANT'S RIGHT IS DOUBTFUL OR DISPUTED. — It bears stressing that to be entitled to an injunctive writ, the right to be protected and the violation against that right must be shown. 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. In the present case, the records fail to reveal any clear and unmistakable right on the part of petitioners. They posit that they are suing in behalf of MI's interests by preventing UCCP from unlawfully wresting control of MI's properties. Their claimed derivative interest, however, has been disputed by UCCP in both its Answer with Counterclaim in Special Civil Action Case No. 03-02 and its Complaint in Civil Case No. 09-2003, wherein MI itself, represented by Dr. Batitang himself, is its co-petitioner. Evidently, the conflicting claims of the parties regarding the issue of ownership over MI's property create the impression that the petitioners' derivative right, used as basis for the issuance of the preliminary injunction, is far from clear. Petitioners claimed right is still indefinite, at least until it is properly threshed out in a trial, negating the presence of a right *in esse* that requires the protection of an injunctive writ. Verily, petitioners cannot lay claim to a clear and positive right based on the 2003 Amended AOI**,** the provisions of which are strongly disputed and alleged to be invalidly obtained.

4. JUDICIAL ETHICS; JUDGES; DISQUALIFICATION; GROUNDS. — The pertinent rule on the mandatory disqualification of judicial officers is laid down in Rule 137 Section 1 of the Rules of Court. Section 1 thereof provides: SECTION 1. *Disqualification of judges*. – No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniary interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity of affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record. Moreover, Rule 3.12 of Canon 3 of the Code of Judicial Conduct,

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which took effect from October 20 1989 until May 31, 2004, the applicable rule then, reads as follows: A judge should take no part in a proceeding where the judge's impartiality might reasonably be questioned. These cases include, among others, proceedings where: x x x (d) the judge is related by consanguinity or affinity to a party litigant within the sixth degree or to counsel within the fourth degree. The prohibitions under the afore-quoted provisions of the Rules are clear. The disqualification is mandatory and gives the judicial officer concerned no discretion but to inhibit himself from trying or sitting in a case. The rationale, therefore, is to preserve the people's faith and confidence in the judiciary's fairness and objectivity.

5. ID.; ID.; ID.; WHERE THE DISQUALIFYING FACT IS INDUBITABLE AND THE PARTIES TO THE CASE MAKE NO WAIVER OF SUCH DISQUALIFICATION, SECTION 1, RULE 137 OF THE RULES OF COURT COMPLETELY STRIPS THE JUDGE OF AUTHORITY TO PROCEED. — While the Court finds it ludicrous that it was the counsel of UCCP, Atty. Poculan, who sought the inhibition of Judge Doyon, considering that the law firm of the latter's son is his collaborating counsel, still the mandatory prohibition applies. Judge Doyon should have immediately inhibited himself from the case upon learning of the entry of appearance of his son's law firm. Where the disqualifying fact is indubitable and the parties to the case make no waiver of such disqualification, as in the case at bench, Section 1, Rule 137 of the Rules of Court forthwith completely strips the judge of authority to proceed.

APPEARANCES OF COUNSEL

Rolando F. Carlota for petitioners.
Poculan & Associates Law Office for respondent.

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D E C I S I O N

MENDOZA, *J.*:

Assailed in this petition for review on *certiorari* under Rule 45 of the Rules of Court are the September 30, 2005 Decision[1] and the March 1, 2006 Resolution[2] of the Court of Appeals *(CA)*, in CA-G.R. SP No. 79156, which dissolved the Writ of Preliminary Injunction[3] dated July 9, 2003 issued by the Regional Trial Court of Cabadbaran, Agusan del Norte, Branch 34 *(RTC)*.

The Factual and Procedural Antecedents

On April 29, 2003, Gregorio D. Calo, Zoilito L. Cepeda, Victorioso D. Udarbe, Tita B. Udarbe, Edgar B. Palarca, Louie Libarios, Anna Mae Pelegrino, Cirilia A. Sanchez, Anita V. Carloto and Eduardo Andit, the incorporators of Mindanao Institute Inc. *(MI Incorporators)*, represented by Engineer Victorioso D. Udarbe *(Engr. Udarbe)*,[4] filed a Petition for Declaratory Relief with Prayer for a Temporary Restraining Order *(TRO)* and Preliminary Injunction[5] against the United Church of Christ in the Philippines *(UCCP)*, acting through the Agusan District Conference of the United Church of Christ in the Philippines and represented by Reverend Rodolfo Baslot *(Rev. Baslot)*, before the RTC, which was docketed as Special Civil Action Case No. **03-02**. The incorporators prayed that Mindanao Institute, Inc. *(MI)* be declared the sole owner of the assets and properties of MI and to prevent the impending takeover by UCCP of MI's properties. They averred that UCCP was unlawfully claiming ownership of MI's properties.

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[1] *Rollo*, pp. 24-34. Penned by Associate Justice Normandie B. Pizarro and concurred in by Associate Justice Edgardo A. Camello and Associate Justice Rodrigo F. Lim, Jr.

[2] *Id.* at 37-40.

[3] *Id.* at 97-98. Issued by Executive Judge Orlando F. Doyon.

[4] *Id.* at 68-69. Gathered based on the *Amended Articles of Incorporation* annexed to the petition.

[5] *Id.* at 45-54.

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On June 5, 2003, UCCP filed its Answer with Counterclaim,[6] asserting its ownership of MI's properties based on certain documents.[7] It claimed that the question of ownership in this case was a settled issue and required no further discourse because "they constitute a majority of the Board of Trustees and, therefore, in complete control thereof x x x."[8]

On June 10, 2003, the RTC issued a TRO[9] against UCCP reasoning out that MI would suffer grave and irreparable damages if the ownership and possession of its assets and properties would be transferred to UCCP. The RTC disposed:

> WHEREFORE, it appearing that petitioners will suffer grave injustice and irreparable injury, let a temporary restraining order against respondents be issued restraining respondents, their representatives, attorneys, agents or any other person acting in their behalf from seizing control and management of the assets and properties of Mindanao Institute.
>
> IT IS ORDERED.[10]

Meanwhile, UCCP received copies of MI's Amended Articles of Incorporation[11] *(2003 Amended AOI)* which was adopted by the MI Incorporators on May 9, 2003 and approved by the Securities and Exchange Commission *(SEC)* on May 26, 2003.

On June 11, 2003, UCCP, represented by Rev. Baslot, and MI, represented by its President Dr. Edgardo R. Batitang *(Dr. Batitang)*, lodged a Complaint for Declaration of Nullity of the 2003 Amended Articles of Incorporation and By-Laws of

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[6] *Id.* at 55-61.

[7] *Id.* at 57. The documents referred to by respondent UCCP in its *Answer with Counterclaim* are the ff: 1) Articles of Incorporation of MI; 2) Deed of Donation; 3) Deed of Quitclaim.

[8] Answer, Par. 5, *id.* at 57.

[9] *Rollo*, pp. 61a-62.

[10] *Id.*

[11] *Id.* at 63-69.

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Mindanao Institute with Prayer for the Issuance of Temporary Restraining Order and Preliminary Injunction and/or Damages[12] before the RTC, which was docketed as Civil Case No. **09-2003.** UCCP and MI asserted that the Amendment of MI's Articles of Incorporation effected by signatories in a reckless and hasty fashion was accomplished without the required majority vote in clear violation of Section 16[13] of Corporation Code.[14] Of the ten (10) signatures appearing in the 2003 Amended AOI constituting 2/3 of the Board of Trustees of MI, five (5) were affixed by mere representatives who were not duly authorized to vote. Further, UCCP and MI, as represented by Dr. Batitang, stressed that the procedure in the acceptance of corporate members as embodied in the Amended By-Laws contains discriminatory provisions, wherein certain members maybe subjected to confirmation and acceptance or rejection, but aimed specifically at members to be nominated by UCCP.

On June 17, 2003, the signatories moved to dismiss[15] the complaint for declaration of nullity of the 2003 Amended AOI. They contended that the SEC, in approving the amendments to the Articles of Incorporation and By-Laws, was exercising its quasi-judicial function and, therefore, a co-equal body of the RTC. Thus, the RTC could not grant any of the reliefs prayed for by UCCP.

At the scheduled joint hearing of Special Civil Action Case No. 03-02 and Civil Case No. 09-2003 to determine the propriety

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[12] *Id.* at 70-87.

[13] Sec. 16. Amendment of Articles of Incorporation. Unless otherwise prescribed by this Code or by special law, and for legitimate purposes, any provision or matter stated in the articles of incorporation may be amended by a majority vote of the board of directors or trustees and the vote or written assent of the stockholders representing at least two-thirds (2/3) of the outstanding capital stock, without prejudice to the appraisal right of dissenting stockholders in accordance with the provisions of this Code, or the vote or written assent of at least two-thirds (2/3) of the members if it be a non-stock corporation.

x x x x x x x x x

[14] Batas Pambansa Blg. 68.

[15] *Rollo*, pp. 88-90.

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of the issuance of a writ of preliminary injunction, the Law Office of Bernabe, Doyon, Bringas and Partners entered its appearance[16] as collaborating counsel for UCCP. Incidentally, Atty. Roy Doyon *(Atty. Doyon)*, the son of Executive Judge Orlando F. Doyon *(Judge Doyon)*, was one of the partners in the said law firm. This prompted Atty. Nelbert T. Poculan, UCCP's lead counsel, to move for the inhibition of Judge Doyon from the case. On the other hand, Atty. Rolando F. Carlota, MI Incorporators' counsel, expressed no objection to the continued participation of Judge Doyon in the proceedings of the case despite the said development.

Subsequently, Judge Doyon proceeded with the joint hearing. Thereafter, the RTC granted the MI incorporators' prayer for preliminary injunction against UCCP in its Omnibus Order[17] dated July 4, 2003, the decretal portion of which states:

> WHEREFORE, the prayer for issuance of a Temporary Restraining Order in Civil Case No. 09-2003 is hereby denied with finality.
>
> As prayed for in Special Civil Case No. 03-02, let a Writ of Preliminary Injunction be issued, restraining, prohibiting, and enjoining respondents, UNITED CHURCH OF CHRIST IN THE PHILIPPINES (UCCP) acting thru AGUSAN DISTRICT CONFERENCE (ADC-UCCP), represented by Rev. Rodolfo Baslot, their agents, representatives, attorneys, and any other persons acting for and in their behalf from taking over, seizing control, managing, or administering MINDANAO INSTITUTE and preventing plaintiffs in discharging their functions and duties in the management, control and administration of the school, its premises and assets, upon plaintiffs putting up a bond in the amount of ₱200,000.00 duly approved by the Court, which bond shall be executed in favour of the defendants to answer for whatever damages they may sustain by reason of or arising from the issuance of the writ in the event that the Court will finally rule that the plaintiffs are not entitled thereto.
>
> IT IS SO ORDERED.

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[16] *Id.* at 95-96.

[17] CA *rollo*, pp. 36-38.

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In issuing the preliminary injunction against UCCP, the RTC explained:

The prayer for the issuance of a Temporary Restraining Order, hereinafter known as TRO, in Civil Case No. 09-2003, is anchored on the assumption that the Amended Articles of Incorporation and Amended By-Laws of Mindanao Institute adopted on May 26, 2003, is null and void for being ultra vires. However, at this stage of the proceedings where the action of the Court is generally based on initial and incomplete evidence, the Court cannot just precipitately rule that the amendments were ultra vires acts of the respondents.

It should be stressed that the questioned Amended Articles of Incorporation and By-Laws is duly approved by the Securities and Exchange Commission, hereinafter referred to as SEC. As such, there being no evidence thus far presented to the contrary, the presumption is that the official duty of the SEC has been regularly performed.

Thus, the actuations of respondents in Civil Case No. 09-2003 based on those documents are presumptively valid unless declared void by this Court after a full-blown trial. In other words, plaintiffs at this stage, have not shown the existence of a clear legal right which has been violated warranting the issuance of a TRO, because before a TRO or injunction is issued, it is essential that there must be a right in esse or the existence of a right to be protected and that the act against which the injunction is issued is a violation of such right.

On the other hand, plaintiffs in Special Civil Case No. 03-02 have shown that they have the legal right in the management and administration of Mindanao Institute because their actuations are based in an Amended Articles of Incorporation and By-Laws duly approved by the SEC. The allegation that it was approved by the SEC in record time cannot be taken as evidence that per se the approval was against any law, rule or regulation.

It is precisely for this reason that the Court issued a TRO because from the amendments, plaintiffs in Special Civil Case No. 03-02 and respondents in Civil Case No. 09-2003 have clear legal rights over the management and administration of Mindanao Institute and that the acts of plaintiffs in Civil Case No. 09-2003 and respondents in Special Civil Case No. 03-02 are in violation of those rights. Pending determination, therefore, of the principal action in Special Civil Case No. 03-02, the Court is inclined to issue a preliminary

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injunction to protect and preserve the rights of plaintiffs.[18]

UCCP moved for a reconsideration but the same was denied by the RTC in its Resolution[19] dated August 15, 2003.

In its Omnibus Order[20] dated August 20, 2003, Judge Doyon inhibited himself from the cases citing the fact that his son's law firm entered its appearance as collaborating counsel for UCCP.

Disappointed with the unfavorable ruling, UCCP and MI, as represented by Dr. Batitang, sought relief with the CA *via* a petition for *certiorari* under Rule 65 of the Rules of Court alleging grave abuse of discretion on the part of the RTC in issuing the assailed order.

The CA granted the petition in its September 30, 2005 Decision, the *fallo* of which reads:

> WHEREFORE, above premises considered, the instant Petition is **GRANTED.** The writ of preliminary injunction issued against the United Church of Christ in the Philippines (UCCP) in Special Civil Case No. 02-03 is hereby **DISSOLVED.** No pronouncement as to costs.
>
> SO ORDERED.[21]

The CA reasoned, among others, that the petition for *certiorari* (Civil Case No. 09-2003) having been jointly filed by UCCP and MI, as represented by Dr. Batitang, was adequate evidence to support the conclusion that MI did not require any injunctive relief from UCCP. The CA also stated that in actions for declaratory relief, the court was only called upon to determine the parties' rights and obligations. Citing *Republic v. Court of Appeals,*[22] it reasoned out that the RTC could not issue injunction

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[18] *Id.* at 34-35. Citations omitted.

[19] *Id.* at 52-55.

[20] *Id.* at 56.

[21] *Rollo,* p. 33.

[22] 383 Phil. 398 (2000).

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in an action for declaratory relief in as much as the right of the MI incorporators had not yet been violated. Moreover, it stated that the subsequent inhibition of Judge Doyon in the cases was pursuant to the rules on compulsory disqualification of a judge under Rule 3.12(d) of the Code of Judicial Conduct.[23]

The MI incorporators, represented by Engr. Udarbe, moved for reconsideration but the motion was denied by the CA in its Resolution dated March 1, 2006.

Hence, this petition.

THE ISSUES

I

WHETHER OR NOT THE HONORABLE COURT OF APPEALS, SPECIAL TWENTY THIRD DIVISION, IN AN ORIGINAL ACTION FOR *CERTIORARI* UNDER RULE 65 ERRED IN CONSIDERING AND RULING ON FACTUAL ISSUES NOT YET HEARD AND TRIED IN THE COURT OF ORIGIN AND BASED ITS DECISION THEREON.

II

WHETHER OR NOT THE HONORABLE COURT OF APPEALS, SPECIAL TWENTY THIRD DIVISION ERRED IN ITS APPLICATION OF RULE 3.12(D) OF THE CODE OF JUDICIAL ETHICS UNDER THE FACTS AND CIRCUMSTANCES SURROUNDING THIS CASE.[24]

In their Memorandum,[25] the petitioners argue that the CA went beyond the province of a writ of *certiorari* by resolving factual questions which should appropriately be threshed out in the trial. On the inhibition, they pointed out that it was solely

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[23] A judge should take no part in a proceeding where the judge's impartiality might reasonably be questioned. These cases include, among others, proceedings where:

(d) the judge is related by consanguinity or affinity to a party litigant within the sixth degree or to counsel within the fourth degree.

[24] *Rollo*, p. 10.

[25] *Id.* at 190-204.

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the law partner of Judge Doyon's son, Atty. J. Ma. James L. Bringas *(Atty. Bringas)*, who personally entered his appearance as collaborating counsel, and not the law firm. Furthermore, they claim that Atty. Doyon, Judge Doyon's son, was neither present in court on the day Atty. Bringas entered his appearance nor was he present in any of the previous hearings of the subject cases. Hence, petitioners claim that Rule 3.12(d) of the Code of Judicial Conduct[26] is not applicable in this case because Atty. Doyon never represented any party in any of the subject cases being heard by Judge Doyon.

In its Memorandum,[27] respondent claims that the petition for review on *certiorari* filed by the petitioners was not properly verified as to authorize Engr. Udarbe to file the same - a fatal procedural infirmity. Further, it points out that petitioners are raising questions of fact in their petition not cognizable by this Court.

THE COURT'S RULING

The petition lacks merit.

The Court is called upon to resolve the issue of whether or not the CA erred in dissolving the writ of preliminary injunction issued against UCCP. The writ of preliminary injunction enjoined UCCP from taking control and management of MI and preventing petitioners from discharging their functions in its management. Thus, the Court shall confine itself only with the concerned writ and not the merits of the cases, which are still pending with the RTC. A preliminary injunction, being a preservative remedy for the protection of substantive rights or interests, is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit.[28]

A preliminary injunction is defined under Section 1, Rule 58 of the Rules of Court, as follows:

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[26] *Supra* note 23.

[27] *Rollo*, pp. 170-188.

[28] *Pahila-Garrido v. Tortogo*, G.R. No. 156358, August 17, 2011.

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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. x x x

A preliminary injunction is a provisional remedy that a party may resort to in order to preserve and protect certain rights and interests during the pendency of an action.[29] The objective of a writ of preliminary injunction is to preserve the *status quo* until the merits of the case can be fully heard. *Status quo* is the last actual, peaceable and uncontested situation which precedes a controversy.[30]

Significantly, Section 3, Rule 58 of the Rules of Court, enumerates the grounds for the issuance of a writ of 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.

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[29] *Limitless Potentials, Inc. v. Court of Appeals*, G.R. No. 164459, April 24, 2007, 522 SCRA 70, 82.

[30] *Preysler, Jr. v. Court of Appeals*, 527 Phil. 129, 136 (2006), citing *Cortez-Estrada v. Heirs of Domingo Samut/Antonia Samut*, 491 Phil. 458, 472 (2005); *Los Baños Rural Bank, Inc. v. Africa*, 433 Phil. 930, 945 (2002).

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Based on the foregoing provision, the Court in *St. James College of Parañaque v. Equitable PCI Bank*[31] ruled that the following requisites must be proved before a writ of preliminary injunction will issue:

(1) The applicant must have a clear and unmistakable right to be protected, 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.[32] [Underscoring supplied]

It bears stressing that to be entitled to an injunctive writ, the right to be protected and the violation against that right must be shown. 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.[33] 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.[34]

In the present case, the records fail to reveal any clear and unmistakable right on the part of petitioners. They posit that they are suing in behalf of MI's interests by preventing UCCP from unlawfully wresting control of MI's properties. Their claimed derivative interest, however, has been disputed by UCCP in

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[31] G.R. No. 179441, August 9, 2010, 627 SCRA 328, 344, citing *Biñan Steel Corporation v. Court of Appeals*, 439 Phil. 688, 703-704 (2002); *Hutchison Ports Philippines, Ltd. v. Subic Bay Metropolitan Authority*, 393 Phil. 843, 859 (2000).

[32] *Id.*

[33] *Equitable PCI Bank, Inc. v. OJ-Mark Trading, Inc.*, G.R. No. 165950, August 11, 2010, 628 SCRA 79, 88, citing *Borromeo v. Court of Appeals*, G.R. No. 169846, March 28, 2008, 550 SCRA 269, 280; *Lim v. Court of Appeals*, 517 Phil. 522, 527 (2006).

[34] *Barayuga v. Adventist University of the Philippines*, G.R. No. 168008, August 17, 2011.

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both its Answer with Counterclaim in Special Civil Action Case No. 03-02 and its Complaint in Civil Case No. 09-2003, wherein MI itself, represented by Dr. Batitang himself, is its co-petitioner. Evidently, the conflicting claims of the parties regarding the issue of ownership over MI's property create the impression that the petitioners' derivative right, used as basis for the issuance of the preliminary injunction, is far from clear. Petitioners claimed right is still indefinite, at least until it is properly threshed out in a trial, negating the presence of a right *in esse* that requires the protection of an injunctive writ. Verily, petitioners cannot lay claim to a clear and positive right based on the 2003 Amended AOI**,** the provisions of which are strongly disputed and alleged to be invalidly obtained.

As regards the issue of Judge Doyon's disqualification to sit as judge in the subject cases, the Court agrees with the CA. The pertinent rule on the mandatory disqualification of judicial officers is laid down in Rule 137 of the Rules of Court. Section 1 thereof provides:

> SECTION 1. *Disqualification of judges.* – No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniary interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record. [Underscoring supplied]
>
> x x x x x x x x x .

Moreover, Rule 3.12 of Canon 3 of the Code of Judicial Conduct, which took effect from October 20, 1989 until May 31, 2004, the applicable rule then, reads as follows:

> A judge should take no part in a proceeding where the judge's impartiality might reasonably be questioned. These cases include, among others, proceedings where:

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x x x x x x x x x

(d) the judge is related by consanguinity or affinity to a party litigant within the sixth degree or to counsel within the fourth degree. [Underscoring supplied]

The prohibitions under the afore-quoted provisions of the Rules are clear. The disqualification is mandatory and gives the judicial officer concerned no discretion but to inhibit himself from trying or sitting in a case. The rationale, therefore, is to preserve the people's faith and confidence in the judiciary's fairness and objectivity.[35]

While the Court finds it ludicrous that it was the counsel of UCCP, Atty. Poculan, who sought the inhibition of Judge Doyon, considering that the law firm of the latter's son is his collaborating counsel, still the mandatory prohibition applies. Judge Doyon should have immediately inhibited himself from the case upon learning of the entry of appearance of his son's law firm. Where the disqualifying fact is indubitable and the parties to the case make no waiver of such disqualification, as in the case at bench, Section 1, Rule 137 of the Rules of Court forthwith completely strips the judge of authority to proceed.[36]

WHEREFORE, the petition is **DENIED.** The assailed September 30, 2005 Decision and March 1, 2006 Resolution of the Court of Appeals, in CA-G.R. SP No. 79156, are hereby **AFFIRMED.**

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Abad, and *Perlas-Bernabe, JJ.,* concur.

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[35] *Busilac Builders, Inc. v. Judge Charles A. Aguilar*, A.M. No. RTJ-03-1809, October 17, 2006, 504 SCRA 585, 598, citing *Ortiz v. Jaculbe, Jr.*, 500 Phil. 142, 147 (2005); *Pimentel v. Salanga*, 128 Phil. 176, 183 (1967); *Hacienda Benito, Inc. v. Court of Appeals*, 237 Phil. 46, 63 (1987).

[36] *Geotina v. Gonzales*, 148-B Phil. 556, 568-569 (1971).