

SECOND DIVISION

[G.R. No. 148924. September 24, 2003]

TOYOTA MOTOR PHILS. CORPORATION WORKERS' ASSOCIATION (TMPCWA), *petitioner*, vs. COURT OF APPEALS (FOURTH DIVISION) JUSTICES ROBERTO BARRIOS, RAMON MABUTAS and EDGARDO CRUZ, and TOYOTA MOTOR PHILS. CORPORATION *respondents*.

DECISION

CALLEJO, SR., J.:

Before us is a petition for *certiorari* under Rule 65 of the 1997 Rules of Civil Procedure filed by Toyota Motor Phils. Corporation Workers' Association (TMPCWA) for the nullification of the June 29, 2001 Resolution^{1[1]} of the Court of Appeals, which granted a writ of preliminary injunction, prayed for by the respondent Toyota Motor Philippines Corporation, and the writ of preliminary injunction issued by the CA on July 12, 2001.^{2[2]}

The Antecedents

On February 19, 1997, this Court ruled that the employees of the respondent Toyota Motor Philippines Corporation (TMPC) belonging to the Level 5 positions under its Single Salary Structure set up were supervisory employees.^{3[3]} The decision became final and executory. Thereafter, the respondent put up and implemented its Three-Function Salary Structure for its personnel/employees.

On February 4, 1999, the petitioner Toyota Motor Philippines Corporation Workers' Association (TMPCWA) filed a petition for certification election in an unorganized establishment, particularly for the rank-and-file employees at the Sta.

^{1[1]} Penned by Associate Justice Roberto A. Barrios, with Associate Justices Ramon A. Mabutas, Jr. and Edgardo P. Cruz concurring.

^{2[2]} Entitled and docketed as *Toyota Motor Philippines Corp. v. Toyota Motor Philippines Corporation Workers Association (TMPCWA) and the Honorable Secretary of Labor and Employment*, CA-G.R. SP No. 63970.

^{3[3]} [*Toyota Motor Philippines Corporation v. Toyota Motor Philippines Corporation Labor Union*](#), 268 SCRA 573 (1997).

Rosa and Bicutan Plants of the respondent TMPC, before the Med-Arbitration Unit of the Department of Labor and Employment, National Capital Region (DOLE-NCR), docketed as NCR-OD-M-9907-017, later redocketed as NCR-OD-M-9902-001. The respondent TMPC opposed the petition on the ground that a case was pending before the Supreme Court between it and another union, the Toyota Motor Philippines Corporation Labor Union (TMPCLU), whose registration certificate has been cancelled. It asserted that the petitioner's membership is the same as that of the TMPCLU, which sought to represent the same bargaining unit. The respondent TMPC further asserted that the petition was merely a rehash of its petition, which had been dismissed on June 18, 1998.

On March 29, 1999, Med-Arbiter Zosima C. Lameyra resolved to dismiss the petition.^{4[4]} On appeal, the DOLE, thru Undersecretary Rosalinda Dimapilis-Baldoz, rendered a Decision^{5[5]} dated June 25, 1999 reversing the Med-Arbiter's decision, and ordering the conduct of a certification election. The DOLE denied the respondent's motion for reconsideration of the said decision.^{6[6]}

The respondent TMPC filed a petition for certiorari under Rule 65 of the Rules of Court, as amended, with the CA, alleging grave abuse of discretion on the part of the Secretary of Labor and Employment (SOLE). However, the CA denied the petition.^{7[7]} It likewise denied the motion for reconsideration filed by the respondent.^{8[8]} Thus, the June 25, 1999 Decision of the SOLE became final. The certification election was set on March 8, 2000.

During the inclusion and exclusion proceedings before the Med-Arbiter conducted on February 15, 2000, the respondent submitted a list of 1,110 employees at its Bicutan and Sta. Rosa Plants included in the payroll list. The petitioner, however, questioned the eligibility of the 120 employees in the list, contending that they were not rank-and-file employees but supervisory employees of the respondent, on the basis of the decision of this Court in *Toyota Motor Phils. Corporation v. Toyota Motor Phils. Corporation Labor Union*. The respondent, for its part, asserted that the establishment of its Three-Function Salary Structure had already superseded the decision of this Court, whereby the real supervisors or managers are distinguished from the rank-and-file employees in terms of the duties/functions of the employees. Nonetheless, the certification election proceeded as scheduled. During the certification election, 105 out of the 120 employees whose eligibilities had been questioned by the petitioner were able to cast their votes, but these votes were not opened and considered. The results of the election are herein quoted:

^{4[4]} *Rollo*, p. 40.

^{5[5]} *Id.* at 39-43.

^{6[6]} *Id.* at 46-47.

^{7[7]} *Id.* at 50-60.

^{8[8]} *Id.* at 62-63.

	Bicutan Plant	Sta. Rosa Plant	Results
Yes Votes	305	198	503
No votes	302	138	440
Challenged Votes	91	14	105
Spoiled Ballots	4	11	15
Total Votes Cast	702	361	1,063 ^{9[9]}

With 503 affirmative votes and the exclusion of the 105 challenged votes, the petitioner asserted that it garnered the majority votes of the 943 votes cast (less the challenged votes); hence, it sought to be declared as the certified bargaining agent of the respondent at its Sta. Rosa and Bicutan Plants. However, the respondent filed a handwritten manifestation on the face of the election results in which it asserted that the petitioner couldn't be certified as having won the election because its vote of 503 was 22 votes shy of the majority. It prayed for the opening of the 91 of the 105 challenged votes at the Bicutan Plant to enable the Med-Arbiter to look into and rule on the qualifications of the said voters and ascertain whether the petitioner indeed won the election. The manifestation in part reads:

The company through [the] undersigned counsel most respectfully manifest that the union cannot be certified as having won in the certification election, because it has failed to get the required majority of 50 [%] + 1 votes as there are still 91 valid votes not yet counted, which the company has considered as belonging to bonafide rank-and-file employees. Hence, the Med-Arbiter has to rule on the opening of said ballots and/or rule on their qualification.^{10[10]}

The respondent filed its position paper with the Med-Arbiter on April 25, 2000, alleging that the 105 challenged votes should have been opened and considered in the tabulation of the results of the election. It averred that if considered, the outcome of the election would have been adverse to the petitioner; hence, the latter cannot be certified as the exclusive bargaining agent of the rank-and-file employees at its Sta. Rosa and Bicutan Plants. The respondent further alleged that under the Three-Function Salary Structure of its personnel which became effective in December 1994, after the decision of this Court in *Toyota Motor Phils. Corp. v. Toyota Motor Phils. Corp. Labor Union*^{11[11]} became final and executory,

^{9[9]} *Id.* at 78.

^{10[10]} *Rollo*, p. 78.

^{11[11]} *Supra*.

the following were rank-and-file employees:

The General Staff

Salary Levels 8 and below – for as long as they function as ordinary staff and they have no subordinates.

Line Employees – refers to the factory workers, those who are assigned at the manufacturing plants.

Salary Levels 1-4

Office Staff

Salary Levels 1-6¹²¹²

The respondent asserted that out of the 105 challenged voters, at least 103 were members of the General Staff category of Levels 5 to 8 and are rank-and-file employees under its Three-Function Salary Structure. The respondent appended to its position paper the affidavit of Jose Ma. Aligada, First Vice-President of the General Administration Division, as well as the affidavits of eighty-nine of the 105 challenged votes. The list of the names of the challenged voters was appended to the position paper.

After the submission of the petitioner's and the respondent's respective position papers, Med-Arbiter Zosima Lameyra issued an Order on May 12, 2000, certifying the petitioner as the exclusive bargaining agent of the rank-and-file employees of Toyota in the said plants. She held that the challenged voters were supervisory employees under the Three-Function Salary Structure, thus:

SUPERVISORY employees are those who belong to:

The General Staff

Salary Levels 9-10 (Supervisors)
Salary Levels 7-8 (Group Heads, if they function as such, i.e., they are staff with subordinates for whom they are responsible in terms of daily work supervision)

Line Employees – refers to the factory workers, those who are assigned at the manufacturing plants.

Salary Levels 9-10 (Foremen)
Salary Levels 7-8 (Senior Group Chiefs)
Salary Levels 5-6 (Junior Group Chiefs- includes Group Leaders and Team Leaders)

Note: Levels 5-10 are considered supervisors only when their actual functions dictate such categorization.

RANK-AND-FILE employees are all other employees, who do not

¹²¹² CA Rollo, Vol. I, p. 131.

fall under either the Managerial or Supervisory classes, specifically:

The General Staff

Salary Levels 8 and below – for as long as they function as ordinary staff and they have no subordinates.

Line Employees – refers to the factory workers, those who are assigned at the manufacturing plants.

Salary Levels 1-4

Office Staff

Salary Levels 1-6^{13[13]}

The decretal portion of the order reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring the challenged voters as ineligible and excluding their votes from the totality of the valid votes cast. Accordingly, TMPCWA is hereby declared to have obtained the majority of the valid votes cast and is hereby certified as the bargaining agent of the rank-and-file employees of the company.^{14[14]}

The respondent interposed an appeal from the said order before the DOLE, alleging that the Med-Arbitrator acted with grave abuse of discretion in issuing the same. The respondent asserted that the challenged voters were rank-and-file employees. The petitioner, on the other hand, insisted that the said employees occupied position Levels 5 and upwards; hence, are supervisory employees, citing the ruling of this Court in *Toyota Motor Phils. Corporation v. Toyota Motor Corporation Labor Union*.

Meanwhile, on June 21, 2000, the employees of the respondent whose votes were challenged filed a petition for declaratory relief with the Arbitration Board of the DOLE, docketed as NLRC-NCR-30-06-02556-00 against the petitioner, praying that:

P R A Y E R

WHEREFORE, petitioners respectfully pray that after due consideration, the Honorable Office render judgment declaring the petitioners are indeed rank-and-file employees based on their employment contract, job description, actual duties and responsibilities and affidavits.^{15[15]}

There was no appearance for the petitioner. On August 4, 2000, Jimmy Sy and other employees of the respondent who were among the 105 challenged voters filed a motion to intervene in NCR-OD-M-9902-001 alleging, *inter alia*, that they had earlier filed a petition for declaratory relief in NLRC-NCR-30-06-02556-

^{13[13]} *Id.* at 258-259.

^{14[14]} *Rollo*, p. 76.

^{15[15]} *CA Rollo*, Vol. I, p. 304.

00. On August 7, 2000, Labor Arbiter Eduardo M. Madriaga rendered a decision granting the petition, the decretal portion of which reads:

The Constitution mandates that the State shall accord protection to labor.

We are, therefore, constrained to grant the instant petition but only for the sole purpose that petitioners may exercise all their rights and claim all legal benefits as rank-and-file workers, as found in the Constitution and the Labor Code.

Otherwise, the rights of workers and their legal benefits may be rendered inutile if their status is unresolved.

WHEREFORE, premises considered, the prayer in the Petition is hereby granted.

SO ORDERED.^{16[16]}

On August 28, 2000, the 105 challenged voters filed a motion in NCR-OD-M-9902-001 for the remand of the case to the Med-Arbiter for the opening of the ballots. They appended to their motion a copy of the order of Labor Arbiter Eduardo M. Madriaga granting their petition for declaratory relief. On October 19, 2000, the DOLE, thru Undersecretary Rosalinda Dimapilis-Baldoz, issued a Resolution affirming the order of Med-Arbiter Zosima C. Almeyra,^{17[17]} holding that (a) since the challenged voters were ineligible to vote, there was no need to open the votes of the challenged voters; (b) the respondent should have adduced its evidence on the status of the challenged voters as rank-and-file employees during the inclusion-exclusion proceedings; (c) the respondent had no legal personality to move for the opening of the challenged voters and delay the proclamation of the winners in the certification election as the respondent is merely a bystander in certification election; (d) in any event, the respondent failed to prove that the challenged voters were rank-and-file employees; (e) the contention of the petitioner that the challenged voters were supervisory employees finds support in the decision of this Court in *Toyota Motor Phils. Corporation v. Toyota Motor Phils. Corporation Labor Union*; (f) the affidavits of the challenged voters were barren of probative weight because the same were executed only after the certification election; besides, the respondent failed to adduce in evidence the job descriptions of the challenged voters for the year 2000. Anent the petition of the challenged voters for a declaratory relief in NLRC-NCR (South) Case No. 30-06-02556-00, the Undersecretary held:

We also take note that a motion to intervene, manifestation and hold proceedings in abeyance had been filed by Jimmy R. Sy, et. al., dated 4 August 2000. The movants are actually among the 105 challenged voters. The reason for the motion is that movants, on 21 June 2000, filed a petition for declaratory relief with the Labor Arbiter, National Labor Relations Commission, docketed as NLRC-NCR (South) Case No. 30-06-02556-00, and captioned "Jeofre A. De Leon, et al. v. Toyota Motor Philippines Corporation and Toyota Motor

^{16[16]} *Id.* at 313-14.

^{17[17]} *Id.* at 264.

Philippines Corporation Workers' Association." The petition prayed for a declaration of whether movants should be considered supervisory or rank-and-file employees. We also note that movants also filed another motion, dated 25 August 2000, seeking to remand the case to the Med-Arbiter for the opening of ballots. Attached to this motion is a decision of Labor Arbiter Edgardo M. Madriaga dated 7 August 2000, to whom Case No. 30-06-02556-00 was assigned, declaring the movants as rank-and-file employees on the reasoning that "rights of workers and their legal benefits may be rendered inutile if their status is unresolved."

When appellant filed this appeal, the issue it submitted for determination is whether or not the 105 challenged voters should be classified as rank-and-file or supervisory employees. Indeed, it is within the exclusive jurisdiction of the Med-Arbiter and the Office of the Secretary in certification election proceedings to resolve this issue. When this case was filed, the Med-Arbiter and later on the Office of the Secretary acquired jurisdiction over the subject matter of the case and the parties to it, to the exclusion of all other adjudicating agencies. In so acquiring jurisdiction, the Med-Arbiter and later on this Office had jurisdiction to resolve the principal issue on the status of the workers whose rights, so the Labor Arbiter surmised, "may be rendered inutile if their status is unresolved."

If the petition filed by movants in the NLRC means anything, it is merely intended to muddle the issue of the appropriate constituency of the bargaining unit which, to stress, is within the exclusive jurisdiction of this Office to determine. Quite obviously, herein appellant, while ostensibly the respondent in the NLRC case, cannot be said not to have given its imprimatur on movants to file such case. For movants are, in the first place, appellant's own witnesses in this case.

This is also an occasion to stress that the NLRC is an attached agency of the Department of Labor and Employment. While the attachment is for program and policy coordination only (Article 213, Labor Code), such coordination is nevertheless broad enough to cover common adherence to public policy objectives. The recourse taken by movants with the NLRC regrettably amounts to a circumvention of the public policy against forum shopping. It also undermines well-established principles on jurisdiction. And it has led the office of the Labor Arbiter, wittingly or unwittingly, to be used as a venue to bring about such undesirable effects.^{18[18]}

The respondent and the challenged voters filed a motion for reconsideration of the said resolution on the following grounds:

1. The alleged misapplication of the Supreme Court ruling in Toyota Motor Philippines Corporation v. Toyota Motor Philippines Corporation Labor Union, G.R. No. 121084, 19 February 1997, in view of the distinct factual circumstances obtaining therein vis-à-vis the instant case;

2. The alleged erroneous finding that the 105 challenged voters are not rank and file in view of the alleged substantial and compelling evidence appellant has submitted vis-à-vis those submitted by the appellee.

^{18[18]} *Id.* at 66-67.

3. The declaration that appellant's position is procedurally infirm; and
4. The alleged misapplication of the bystander rule against the appellant, considering that this case is one of the recognized exceptions to the rule.^{19[19]}

While the motion was pending, the respondent received on October 27, 2000 a letter from the petitioner, through its President Ed Cubelo, and the members of its Board of Directors, appending thereto its CBA proposal for the respondent's consideration.^{20[20]} On November 7, 2000, the respondent wrote the petitioner that it could not as yet submit any counter-proposal because its motion for reconsideration of the resolution of the SOLE was still pending. On November 15, 2000, Ed Cubelo wrote the respondent demanding that the latter submit its counter-proposal to the proposed CBA. On November 28, 2000, the respondent reiterated its stand that until its motion for reconsideration was resolved, it would not negotiate with the petitioner on its proposed CBA. On December 8, 2000, the respondent received another letter from the petitioner giving the respondent a period of ten days within which to reply to its CBA proposal.^{21[21]}

In the meantime, the hearing of the respondent's motion for reconsideration of the resolution of Undersecretary Rosalinda Dimapilis-Baldoz was set on February 22, 2001. On February 21, 2001, the respondent received a letter from the petitioner that its members would absent themselves from work to attend the hearing.^{22[22]} The petitioner informed the respondent that its members were willing to work on their rest day to make up for their absence on February 22, 2001. During the hearing, 22 of the challenged voters managed to testify on their duties and functions. The other challenged voters failed to testify because they had to take the place of the employees who attended the hearing.

On March 1, 2001, the petitioner voted to stage a strike at the Sta. Rosa and Bicutan Plants of the respondent and filed a manifestation with the NCR-National Conciliation and Mediation Board (NCR-NCMB)^{23[23]} informing the latter of its intention to stage a strike from March 28, 2001 onwards.

On March 16, 2001, the petitioner filed a manifestation^{24[24]} with the NCR-NCMB that the respondent had dismissed three hundred union members and officers. Nevertheless, the petitioner gave several days for the respondent to "mend" its mind and to cease and desist from committing unfair labor practice. The petitioner further stated that the union members would stage a protest in front of the company premises.

^{19[19]} *Id.* at 70.

^{20[20]} *Id.* at 578.

^{21[21]} *Id.* at 579.

^{22[22]} *Id.* at 580.

^{23[23]} *Id.* at 583.

^{24[24]} *Id.* at 587.

On the same day, the DOLE, thru Secretary Patricia Sto. Tomas, issued a resolution denying with modification the motion for reconsideration of the respondent.^{25[25]} The SOLE stated that her resolution shall become final and executory within ten days from notice. She ruled that the respondent had the burden to prove that the challenged voters were rank-and-file employees, but that the respondent failed to discharge its burden; the respondent failed to adduce in evidence the job descriptions of the challenged voters; the affidavits of Jose Ma. Aligada and of the challenged voters were barren of probative weight because the affiants were not presented to the Med-Arbiter to attest the truth of their affidavits; the Three-Function Salary Structure adopted by the respondent in December 1994, did not change the tasks performed by its employees; what is determinative of the classification of employees is their “actual functions.” Only 18 of the challenged voters were rank-and-file employees of the respondent, and such number is insufficient to overturn the result of the election. The SOLE also ruled that the decision of Labor Arbiter Eduardo C. Madriaga in NLRC-NCR-30-06-02556-00 was irrelevant because the petition in the said case was a case of forum shopping, filed by the challenged voters at the behest of the respondent. Entry of judgment was made of record on March 19, 2001.

On this same date, the petitioner wrote the respondent, suggesting that a conference be held between them on March 21, 2002 to settle all issues amicably including their current labor dispute and CBA regulations. For its part, the respondent filed on March 27, 2001 a petition for certiorari with the CA under Rule 65 of the Rules of Court, as amended, for the nullification of the October 19, 2000 and March 16, 2001 Resolutions of the SOLE, with a plea for the issuance of a preliminary injunction or at least a temporary restraining order.^{26[26]} The respondent alleged, *inter alia*, that:

I

PUBLIC RESPONDENT SECRETARY GRAVELY ABUSED HER DISCRETION, AMOUNTING TO LACK OR EXCESS OF HER JURISDICTION, IN DECLARING THAT THE CHALLENGED VOTERS, EXCEPT FOR EIGHTEEN (18) OF THEM, ARE SUPERVISORY EMPLOYEES, AND THUS, INELIGIBLE TO VOTE IN THE CERTIFICATION ELECTION AMONG THE COMPANY’S RANK-AND-FILE EMPLOYEES.

II

IT WAS GRAVE ABUSE OF DISCRETION ON THE PART OF RESPONDENT SECRETARY WHEN SHE AFFIRMED THE ORDER OF THE MED-ARBITER CERTIFYING PRIVATE RESPONDENT AS THE EXCLUSIVE BARGAINING AGENT OF PETITIONER TMPC’S RANK-AND-FILE EMPLOYEES, DESPITE THE LATTER’S FAILURE TO OBTAIN A MAJORITY OF THE VALID VOTES

^{25[25]} *Id.* at 87-98.

^{26[26]} CA-G.R. SP No. 63970. The challenged voters did not join the respondent as parties-petitioners.

CAST.^{27[27]}

Specifically, the respondent asserted that the petitioner bears the burden of proving that the 105 challenged voters are supervisory employees.^{28[28]} Assuming *arguendo* that the respondent had the burden, nevertheless, it adduced overwhelming evidence that the challenged voters are, indeed, rank-and-file employees.^{29[29]} Proceedings before labor agencies merely require the parties to submit their respective position papers and supporting affidavits. Hence, the affidavits of Jose Ma. Aligada and the challenged voters are admissible in evidence.^{30[30]} The public respondent SOLE cannot consider the affidavits of the challenged voters as defective by concluding that the same were not properly notarized, inasmuch as the petitioner never challenged the matter before the Med-Arbiter below.^{31 [31]} All the affidavits of the challenged employees are admissible in evidence and entitled to credence.^{32[32]} The petition for declaratory relief of the challenged voters had already been granted by the labor arbiter. The decision of the Supreme Court in *Toyota Motor Philippines Corporation vs. Toyota Motor Philippines Corporation Labor Union* is not on all fours with the present case.^{33[33]} Meanwhile, the petitioner staged a strike on March 28, 2001.

In compliance with the resolution of the CA, the petitioner filed its comment on the petition asserting that the CA committed grave abuse of discretion amounting to lack of jurisdiction, and grave error of law in taking cognizance of the petition and issuing a temporary restraining order, as on its face the petition seeking to annul the certification election, and the order certifying the union as the sole and exclusive bargaining agent, was illegal. The respondent, as employer, is without *locus standi* to appeal from a decision certifying the petitioner as the sole and exclusive bargaining agent.

The petitioner further alleged that (a) the Court in the earlier Toyota case found that the categorization of Levels 5 and 6 was for positions occupied by employees, not merely for salary purposes; (b) the factual findings of the SOLE and the Med-Arbiter are binding upon the CA, there being no showing of grave abuse of discretion and duly supported by the evidence on record; (c) the Union was certified as the sole and exclusive bargaining agent of all rank-and-file employees having obtained a majority of the valid votes cast; (d) the alleged decision of Labor Arbiter Madriaga has no bearing in the instant case as the Med-Arbiter and the SOLE has the original and exclusive jurisdiction over

^{27[27]} *CA Rollo*, Vol. I, pp. 19-20.

^{28[28]} *Id.* at 20.

^{29[29]} *Id.* at 23.

^{30[30]} *Id.* at 29.

^{31[31]} *Id.* at 32.

^{32[32]} *Id.* at 34.

^{33[33]} *Id.* at 35.

petitions for certification elections, and on issues of who are qualified to vote as members of the bargaining unit; and (e) certain misrepresentation and false allegation must be exposed for what they are.

On April 3, 2001, the CA issued a Resolution granting a Temporary Restraining Order (TRO) effective for a period of sixty (60) days, and directing the petitioner to file its Comment on the petition.^{34[34]} In the meantime, the SOLE assumed jurisdiction over the notice to strike, and issued an order to the members and officers of the petitioner to return to work. The said members and officers complied with the order and ended their strike on April 11, 2001.

During the hearing of the respondent's plea for a writ of preliminary injunction on June 13, 2001, the petitioner averred that the respondent was not the real party-in-interest as it is merely a bystander in a certification election. Since the SOLE had already assumed jurisdiction over the petitioner's projected strike and the union members and officers had complied with the return-to-work order, there was no longer a need for the issuance of a writ of preliminary injunction. After the hearing, the parties were ordered to submit their respective memoranda. On June 29, 2001, the Court of Appeals issued a resolution granting the plea of the respondent herein for a writ of preliminary injunction, thus:

...to GRANT the preliminary injunction prayed for by the petitioner, and upon its posting of an injunction bond in the sum of P500,000.00, it is **ORDERED** of the respondents and all those acting for or through them, to cease and desist from enforcing, implementing or otherwise acting on and giving effect to the public respondent's assailed *Resolutions of October 19, 2000* (Annex "A" of the Petition, p. 58, rollo) and *March 16, 2001* (Annex "B" of the Petition, p. 69, rollo) and allied processes issued in O-A-4-27-99 (NCR-OD-M-9902-001) subject of this petition, pending the termination of this litigation, and/or unless a contrary Resolution is issued by this court.^{35[35]}

Aggrieved, the petitioner filed on July 27, 2001 the instant petition under Rule 65 of the Rules of Court, as amended, with a prayer for a temporary restraining order/preliminary injunction.

The petitioner avers that the CA committed a grave abuse of its discretion amounting to excess or lack of jurisdiction in granting a writ of preliminary injunction in favor of the respondent. The petitioner asserts that the respondent, as the employer, is not a party in a certification election case; hence, it is a mere bystander. The respondent is not the real party-in-interest to assail the results of the certification election and the proceedings therein. The respondent, as the employer, had no right whatsoever nor an iota of interest in the results of the certification election. The respondent failed to establish a clear right to injunctive relief. The ruling of the SOLE that the petitioner was the sole and exclusive bargaining agent of all rank-and-file employees of the respondent, having obtained a majority of the valid votes cast was correct, based as it is on the

^{34[34]} *Rollo*, p. 111.

^{35[35]} *Rollo*, pp. 21-22

evidence adduced by the parties.

The respondent, for its part, avers that the contention of the petitioner that the respondent lacks the legal standing to assail the certification election results goes into the merits of its petition in the CA. In resolving the issue in this case of whether or not the CA committed a grave abuse of its discretion in issuing the writ of preliminary injunction, the Court is proscribed from resolving the petition of the respondent with the CA on its merits. The respondent asserts that it has a clear legal right to deal with a bona fide bargaining agent. It sought injunctive relief from the CA precisely to protect said right pending the resolution of its petition on the merits. The petitioner has committed, and is still committing, acts which materially and substantially invade its rights to collectively bargain with a bargaining agent properly certified in accordance with law. The writ of injunction issued by the CA restrained the coercive actions of the petitioner that resulted in serious damages to it. The matter of the issuance of a writ of preliminary injunction rests entirely within the discretion of the CA. The petitioner failed to establish that the CA committed a grave abuse of its discretion amounting to lack or excess of jurisdiction in issuing the writ of preliminary injunction.

The petition is meritorious.

In [Land Bank of the Philippines v. Court of Appeals](#),^{36[36]} we held, *inter alia*, that the writ of certiorari issues for the correction of errors of jurisdiction only or grave abuse of discretion amounting to lack or excess of jurisdiction. Its function is to keep the inferior court within the bounds of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction. It may issue only when the following requirements are alleged in the petition and established: (1) the writ is directed against a tribunal, a board or any officer exercising judicial or quasi-judicial functions; (2) such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law. Excess of jurisdiction as distinguished from absence of jurisdiction means that an act, though within the general power of a tribunal, board or officer is not authorized, and invalid with respect to the particular proceeding, because the conditions which alone authorize the exercise of the general power in respect of it are wanting. Without jurisdiction means lack or want of legal power, right or authority to hear and determine a cause or causes, considered either in general or with reference to a particular matter. It means lack of power to exercise authority.

In [Placido Urbanes, Jr. v. Court of Appeals](#),^{37[37]} we held that the matter of the issuance of a writ of preliminary injunction is addressed to the sound discretion of the trial court, unless the court commits a grave abuse of discretion. Grave abuse of discretion in the issuance of writs of preliminary injunction implies a capricious and whimsical exercise of judgment that is equivalent to lack of

^{36[36]} G.R. No. 129368, August 25, 2003.

^{37[37]} 355 SCRA 537 (2001).

jurisdiction or whether the power is exercised 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. For the extraordinary writ of certiorari to lie, there must be a capricious, arbitrary and whimsical exercise of power.

Section 1, Rule 58 of the Rules of Court, as amended, defines a preliminary injunction as an order granted at any stage of an action 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. Injunction is accepted as the strong arm of equity or a transcendent remedy to be used cautiously as it affects the respective rights of the parties, and only upon full conviction on the part of the court of its extreme necessity. As an extraordinary remedy, injunction is designed to preserve or maintain the *status quo* of things and is generally availed of to prevent actual or threatened acts until the merits of the case can be heard. It may be resorted to only by a litigant for the preservation or protection of his rights or interests and for no other purpose during the pendency of the principal action.^{38[38]} It is resorted to only when there is a pressing necessity to avoid injurious consequences, which cannot be remedied under any standard compensation.^{39[39]} The resolution of an application for a writ of preliminary injunction rests upon the existence of an emergency or of a special recourse before the main case can be heard in due course of proceedings.^{40[40]}

In [Heirs of Joaquin Asuncion v. Hon. Gervacio, Jr.](#),^{41[41]} we held that the writ of preliminary injunction is issued to prevent threatened or continuous irremediable injury to parties before the case can be resolved on its merits.

We likewise held that the essential conditions for granting such temporary injunctive relief are that the material averments in the complaint appear to be sufficient to constitute a cause of action for injunction and that on the entire showing from the parties it appears, in view of all the attendant circumstances, that the injunctive relief is reasonably necessary to protect the legal rights of the plaintiff/petitioner *pendente lite*. The plaintiff/petitioner must establish the following requisites for preliminary injunctive relief: (a) the invasion of the right sought to be protected is material and substantial; (b) the right of the complainant is clear and unmistakable; (c) there is an urgent and paramount necessity for the writ to prevent serious damage.^{42[42]} The existence of the right and the violation thereof by the defendant must appear in the material allegation of the

^{38[38]} [Cagayan de Oro City Landless Residents Association, Inc. v. Court of Appeals](#), 254 SCRA 220 (1996).

^{39[39]} [Philippine National Bank v. Ritratto Group, Inc.](#), 362 SCRA 216 (2001).

^{40[40]} [Lopez v. Court of Appeals](#), 322 SCRA 686 (2000); [Del Rosario v. Court of Appeals](#), 255 SCRA 152 (1996).

^{41[41]} 304 SCRA 322 (1999).

^{42[42]} [Dionisio v. Ortiz](#), 204 SCRA 745 (1991).

complaint/petition. *When the complainant's right or title is doubtful, a preliminary injunction is not proper. The possibility of irreparable damage without proof of actual existing right is not a ground for injunction.*^{43[43]} Moreover, the courts should avoid using a writ of preliminary injunction, which in effect disposes of the main case without trial.^{44[44]} In resolving the petition/application for a writ of preliminary injunction, the trial court or the CA includes in its order/resolution the factual and legal laws granting or denying the said petition/application.

In this case, we are convinced that the CA committed a grave abuse of discretion in granting the respondent's plea for injunctive relief.

First. The issue of whether or not the respondent is entitled to injunctive relief is interwoven with the principal issue on the merits of the petition, whether or not the respondent is the real party-in-interest to assail the resolution of the SOLE and the resolution of the Med-Arbiter. For sure, the petitioner cited a plethora of decisions of this Court that in certification elections, the employer is a bystander; it has no right or material interest to assail the certification election.

On the other hand, the stand of the respondent cannot be dismissed as trivial and unsubstantial. Central to the issue posed by the parties before the SOLE in this case is the application of the doctrine enunciated by this Court in *Toyota Motor Philippines Corporation v. Toyota Motor Philippines Corporation Labor Union*^{45[45]} in which the respondent was the petitioner. The petitioner herein, as well as the Med-Arbiter and the SOLE are one in saying that the doctrine enunciated by this Court in said case is determinative of the principal issue posed by the parties in this case. The respondent was as adamant in its pose that the pronouncement of this Court in the said case is not decisive of the issue because after the decision of this Court in that case had become final and executory, the respondent approved and implemented a Three-Function Salary Structure for its personnel/employees. Moreover, the respondent submits that it can be compelled to negotiate in and enter into a collective bargaining agreement only with the appropriate bargaining unit of the rank-and-file employees of the respondent and not by supervisory employees based on the job descriptions of the employees and not on the titles of employment of the employees.^{46[46]} If not elected by the majority of the rank-and-file employees of the respondent, the petitioner has no legal right to negotiate and bargain with the respondent for a collective bargaining agreement. By granting the respondent's plea for a writ of preliminary injunction, the CA, in effect, ruled that the respondent is the real party-in-interest, and not merely a bystander in the certification election; hence, has a material and substantial right sought to be protected. Thus, through the issuance of the writ, the CA may be perceived as

^{43[43]} *Heirs of Asuncion v. Gervacio, Jr., supra.*

^{44[44]} *Sy v. Court of Appeals*, 313 SCRA 328 (1999).

^{45[45]} *Supra.*

^{46[46]} *Dunlop Slazenger (Phils.) Inc. v. Hon. Secretary of Labor and Employment*, 300 SCRA 120 (1998).

having prejudged the principal issue before it.

Second. The CA took into account the pleadings of the parties and their admissions during the hearing of respondent's plea for injunctive relief.

In its petition with the CA, the respondent prayed the CA for a writ of preliminary injunction on its claim that (a) the petitioner was coercing and urging its members to force the respondent to start with the negotiation of the CBA despite the serious question on the status of the petitioner as the exclusive bargaining agent of the rank-and-file employees; (b) 300 employees refused to render overtime service on February 21, 2001 and deliberately did not report for work from February 22-23, 2001; (c) during the said period, the operation of the respondent's production plant was paralyzed and lost potential sales in the amount of ₱40,000,000; (d) the government will suffer considerable losses in taxes from the respondent; (e) if the status of the challenged voters is not finally resolved, it will result in their mass promotion not on the basis of their work performance but simply on the erroneous *dictum* of the SOLE; (f) if the operations of the respondent are paralyzed because of the dispute on the status of the challenged voters, its 1,600 employees will be adversely affected if the respondent will be impelled to resort to cost-reduction or even the closure of its business, thus contributing to the already worsening unemployment condition of the country. However, during the hearing of the respondents' plea for a writ of preliminary injunction, the petitioner, through counsel, manifested to the CA that the SOLE had assumed jurisdiction over the strike staged by it and that, in compliance with the order of the SOLE, all the union members and officers who staged the strike had returned to work. The SOLE had determined that the industry engaged in by the respondent is indispensable to the national interest. The petitioner assured the CA and the respondent that in view thereof, its members and officers would no longer stage a strike because of the certification election:

ATTY. MARAVILLA:

... Your Honor, there is no danger at all posed if no injunction is issued. The submission of counsel that the union would go on strike because of non-issuance of injunction is false Your Honor. Why? First, we say that they are not going to go on strike just because of the issue of this certification election. That is our guarantee. Second, there has already been an order from the Sec. of Labor assuming jurisdiction precisely over the issue, the issue of whether the union is the certified bargaining agent or not Your Honor. So, since there is now injunction or an assumption order, we are banned by law to go there. So there is no point Your Honor to issue an injunction. It has been mooted Your Honor. Moreover, Your Honor, it was false on the part of respondent to allege that we even went on strike even after the assumption of jurisdiction. That is not true. We went on strike before the assumption of jurisdiction. They returned to work when the Sec. of Labor assumed jurisdiction. They returned to work. As a matter of fact up to now we are still working, at least those people they have accepted back to return to work. Your Honor, we are referring to Annex "L" of our comment. The ground for our strike was not representation issue because union busting demands dismissal of the union officers and about

200 plus members. That is the ground for the strike not because of the representation issue. It is simply false on their part to allege that we are going to go on strike just because of this representation issue which we did not in the past and which we do not intend to do now even without any preliminary injunction Your Honor. ...^{47[47]}

In light of the express manifestations and guarantee made by the petitioner, through counsel, which were unrebutted by the respondent, there was no longer any emergency, urgency or a pressing necessity for the CA to still issue a writ of preliminary injunction. There is no showing in the record that despite the assumption by the SOLE of the dispute between the petitioner and the respondent, the petitioner is bent on staging a strike against the respondent in defiance by the petitioner of the order of the SOLE.

WHEREFORE, the petition is GRANTED. The Resolution of the Court of Appeals dated June 29, 2001, and the Writ of Preliminary Injunction issued on July 12, 2002 are SET ASIDE and NULLIFIED.

SO ORDERED.

Bellosillo, (Chairman), *Austria-Martinez* and *Tinga, JJ.*, concur.
Quisumbing, J., no part – due prior DOLE action.

^{47[47]} CA *Rollo*, Vol. I, pp. 680-682 (Underscoring supplied).