

RULE 58

Preliminary Injunction

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 particular act or acts, in which case it shall be known as a preliminary mandatory injunction. (1a)

Section 2. *Who may grant preliminary injunction.* — A preliminary injunction may be granted by the court where the action or proceeding is pending. If the action or proceeding is pending in the Court of Appeals or in the Supreme Court, it may be issued by said court or any member thereof. (2a)

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. (3a)

Section 4. *Verified application and bond for preliminary injunction or temporary restraining order.* — A preliminary injunction or temporary restraining order may be granted only when:

(a) The application in the action or proceeding is verified, and shows facts entitling the applicant to the relief demanded; and

(b) Unless exempted by the court the applicant files with the court where the action or proceeding is pending, a bond executed to the party or person enjoined, in an amount to be fixed by the court, to the effect that the applicant will pay to such party or person all damages which he may sustain by reason of the injunction or temporary restraining order if the court should finally decide that the applicant was not entitled thereto. Upon approval of the requisite bond, a writ of preliminary injunction shall be issued. (4a)

(c) When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court, shall be raffled only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be preceded, or contemporaneously

accompanied, by service of summons, together with a copy of the complaint or initiatory pleading and the applicant's affidavit and bond, upon the adverse party in the Philippines.

However, where the summons could not be served personally or by substituted service despite diligent efforts, or the adverse party is a resident of the Philippines temporarily absent therefrom or is a nonresident thereof, the requirement of prior or contemporaneous service of summons shall not apply.

(d) The application for a temporary restraining order shall thereafter be acted upon only after all parties are heard in a summary hearing which shall be conducted within twenty-four (24) hours after the sheriff's return of service and/or the records are received by the branch selected by raffle and to which the records shall be transmitted immediately.

Section 5. *Preliminary injunction not granted without notice; exception.* — No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order. (Bar Matter No. 803, 17 February 1998)

However, and subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-sala court or the presiding judge of a single sala court may issue *ex parte* a temporary restraining order effective for only seventy-two (72) hours from issuance but he shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. In no case shall the total period of effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two hours provided herein.

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed, automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be

enjoined. A restraining, order issued by the Supreme Court or a member thereof shall be effective until further orders. (5a)

Section 6. *Grounds for objection to, or for motion of dissolution of, injunction or restraining order.* — The application for injunction or restraining order may be denied, upon a showing of its insufficiency. The injunction or restraining order may also be denied, or, if granted, may be dissolved, on other grounds upon affidavits of the party or person enjoined, which may be opposed by the applicant also by affidavits. It may further be denied, or if granted, may be dissolved, if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the court conditioned that he will pay all damages which the applicant may suffer by the denial or the dissolution of the injunction or restraining order. If it appears that the extent of the preliminary injunction or restraining order granted is too great, it may be modified. (6a)

Section 7. *Service of copies of bonds; effect of disapproval of same.* — The party filing a bond in accordance with the provisions of this Rule shall forthwith serve a copy of such bond on the other party, who may except to the sufficiency of the bond, or of the surety or sureties thereon. If the applicant's bond is found to be insufficient in amount, or if the surety or sureties thereon fail to justify, and a bond sufficient in amount with sufficient sureties approved after justification is not filed forthwith the injunction shall be dissolved. If the bond of the adverse party is found to be insufficient in amount, or the surety or sureties thereon fail to justify a bond sufficient in amount with sufficient sureties approved after justification is not filed forthwith, the injunction shall be granted or restored, as the case may be. (8a)

Section 8. *Judgment to include damages against party and sureties.* — At the trial, the amount of damages to be awarded to either party, upon the bond of the adverse party, shall be claimed, ascertained, and awarded under the same procedure prescribed in section 20 of Rule 57. (9a)

Section 9. *When final injunction granted.* — If after the trial of the action it appears that the applicant is entitled to have the act or acts complained of permanently enjoined the court shall grant a final injunction perpetually restraining the party or person enjoined from the commission or continuance of the act or acts of confirming the preliminary mandatory injunction. (10a)