

Resolution

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G.R. No. 179095

Respondents, through the Solicitor General, argue in their Comment that the petition fails to meet and satisfy the essential requisites for the grant of the writ of prohibition, injunction, and TRO provided in Sec. 2, Rule 65 of the Rules of Civil Procedure.⁶ For one, respondents claim that they do not exercise judicial, quasi-judicial, or ministerial functions; and that their duties call for the exercise of discretion, not merely ministerial functions, which may not be restrained by an action for prohibition. Also, they claim that there was no allegation that respondents acted without or in excess of their jurisdiction or with grave abuse of discretion in relation to a "proceeding" that is pending before them. Lastly, they allege that the petition is not accompanied by a certified true copy of the judgment, order, or resolution subject of the petition.⁷

Respondents further maintain that the need for immediate protective custody orders, appointment of an independent commissioner, inspection and access orders, and similar reliefs are all without factual and legal bases. They point out that the only basis of the petition is Raymond's "unverified, uncorroborated, obviously self-serving and unsworn statement." Moreover, they argue that the petition raises questions of fact which would require validation, reception of evidence for or against them, and full-blown trial on the merits to determine petitioners' entitlement to the reliefs. Lastly, they note that there is no law authorizing the issuance of protective orders, inspection and access orders, and appointment of an independent commissioner. Thus, they pray for the dismissal of the petition.⁸

⁶ *Petition for Prohibition*.—When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

The petition shall likewise be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

⁷ *Rollo*, pp. 15-19.

⁸ *Id.* at 19-20.