

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2009 CA 1769

OUR LADY OF THE LAKE HOSPITAL, INC.

VERSUS

LOUISIANA CARPENTER'S REGIONAL COUNSEL,
UNITED BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICA,
JASON B. ENGELS AND CHARLIE MANNING

Judgment Rendered: APR - 1 2010

APPEALED FROM THE
NINETEENTH JUDICIAL DISTRICT COURT
IN AND FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA
DOCKET NUMBER 576,602, DIVISION 27

THE HONORABLE TODD W. HERNANDEZ, JUDGE

Murphy J. Foster, III
John T. Andrishok
Michael R. Hubbell
Baton Rouge, Louisiana

Attorneys for Plaintiff/Appellee
Our Lady of the Lake Hospital, Inc.

Louis L. Robein, Jr.
Kevin R. Mason
Metairie, Louisiana

Attorneys for Defendants/Appellants
Louisiana Carpenters Regional
Council,
Jason B. Engels and Charlie Manning

BEFORE: PARRO, KUHN, AND McDONALD, JJ.

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McDONALD, J.

On March 19, 2009, Our Lady of the Lake Hospital, Inc. (OLOL) filed a petition for preliminary and permanent injunction, temporary restraining order, and damages against the Louisiana Carpenters Regional Council,¹ Jason B. Engels, and Charlie Manning (defendants), asserting that in February of 2009 the defendants began a campaign to organize the work force of carpentry craft workers performing work for Lloyd N. Moreau, L.L.C., a subcontractor of Milton J. Womack, Inc. Womack was the general contractor working on multiple projects at OLOL. OLOL asserted that the defendants had been hindering access to its facilities, distributing leaflets to its patients, employees, and visitors, and erecting and suspending large banners on OLOL property. OLOL asserted that the defendants violated several Baton Rouge City/Parish Ordinances and were trespassing on OLOL property. A temporary restraining order was signed by the district court judge on March 20, 2009, prohibiting defendants from carrying on their conduct on OLOL property. The defendants filed a motion to dissolve the temporary restraining order.

After a hearing, the district court granted OLOL's motion for preliminary injunction and issued a judgment prohibiting, restraining, and enjoining the defendants from engaging in picketing, loitering, having banners, or handing out handbills anywhere on OLOL property, including utility servitude areas, and from obstructing or interfering with ingress and egress to OLOL property. The district court also denied the motion to dissolve the temporary restraining order. The defendants are appealing the judgment, asserting that the district court erred in granting the preliminary injunction.

¹ The Louisiana Carpenters Regional Council was incorrectly named "Louisiana Carpenter's Regional Counsel, United Brotherhood of Carpenters and Joiners of America" in the petition.

The issuance of a preliminary injunction addresses itself to the sound discretion of the trial court and will not be disturbed on review unless a clear abuse of discretion has been shown. **Concerned Citizens for Proper Planning, LLC v. Parish of Tangipahoa**, 04-0270, p. 5 (La. App. 1 Cir. 3/24/05), 906 So.2d 660, 663.

The district court had the following reasons for judgment:

The court having had the opportunity to take the matter under advisement and review the evidence as submitted, the court will note that there has been no evidence introduced that there is or ever has been a labor dispute between the plaintiff and the defendant as defined by Title 23 or the **Norris-Laguardia Act**. Furthermore, there is no evidence of any employer/employee relationship between the parties nor is there a collective bargaining agreement. Therefore, in the court's opinion this is a matter concerning property rights in a property right dispute as opposed to a labor dispute.

The evidence as viewed by the court clearly establishes specifically by exhibits 22 and 24 the property boundaries of the plaintiff, Our Lady of the Lake. The servitudes depicted in exhibits 22 and 24 clearly are public servitudes for drainage and utilities and are not servitudes or passages granted in favor of any designated person or the general public. Therefore, plaintiff, Our Lady of the Lake, retains ownership of the servitudes in question and may lawfully prohibit any activity that it deems undesirable in those designated areas.

After a thorough review of the record, we find no abuse of discretion in the issuance of the preliminary injunction and we affirm the district court judgment. Costs of this appeal are assessed against the defendants. This memorandum opinion is rendered in accordance with the Louisiana Uniform Rules-Courts of Appeal, Rule 2-16.1.B.

AFFIRMED.