

**THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES,
AND THE DIRECTOR OF FORESTRY, PETITIONERS, VS. HON.
WALFRIDO DE LOS ANGELES, AS JUDGE OF THE COURT OF FIRST
INSTANCE OF RIZAL...**

G.R. No. L-30215. February 29, 1972

Ponente: FERNANDO, J.

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FERNANDO, J.:

The issuance of a preliminary injunction by respondent Judge Walfrido de los Angeles of the Court of First Instance of Rizal, stationed at Quezon City, is assailed in this certiorari and prohibition proceeding by petitioners, the Secretary of Agriculture and Natural Resources and the Director of Forestry. By virtue of such preliminary injunction, private respondent, Almario F. Mendoza, who filed a petition for certiorari, prohibition and mandamus with preliminary injunction in the sala of respondent Judge,[1] would thus be enabled to continue logging operations after the expiration of his timber license and a denial of a renewal thereof by petitioner Director of Forestry, notwithstanding the explicit language of the Administrative Code prohibiting forest products from being "cut, gathered or removed in or from any forest" without a license from the Bureau of Forestry.[2] Without seeking to exhaust the administrative remedy provided for by an appeal to the other petitioner, the Secretary of Agriculture and Natural Resources, respondent Mendoza, in the above action before respondent Judge, did obtain the writ of preliminary injunction now complained of. The question, it is thus apparent, is devoid of any complexity. Moreover, it has been answered quite conclusively, and in a manner adverse to private respondent in a single opinion of the Chief Justice rendered on June 27, 1968 disposing of three cases.[3] The controlling force of the above opinion renders crystal-clear why the issuance of the writ of preliminary injunction by respondent Judge amounted to a grave abuse of discretion correctible by this action for certiorari and prohibition.

The facts are undisputed. Respondent Almario F. Mendoza, on December 16, 1964, obtained an ordinary timber license to conduct for a period of two years, expiring on December 16, 1966, logging operations to cut and remove seventeen thousand eight hundred and fifty-five cubic meters of timber from a public forest area covering 21,125 hectares, situated in the municipalities of San Mariano and Echague, Province of Isabela. Shortly before the date of expiration on October 3, 1966, he applied for a renewal of such license with the Director of Forestry but was unsuccessful. The denial of such application came on May 15, 1968, after he was accorded the opportunity to be heard. It was premised on respondent Mendoza's failure to comply with the requirements of installing a wood processing plant and other violations of the terms of the license, such as that the sawmill claimed to be that of respondent Mendoza was actually owned by a Chinese national and that he had not reached the licensed area, his logging operation being confined along the roadway and other places not included in what was granted him.

Then on December 20, 1968, respondent Mendoza filed with the Court of First Instance of Rizal, Quezon City Branch, a petition for certiorari, prohibition and mandamus with preliminary injunction docketed as Civil Case No. Q-12689 and assigned to respondent Judge. He sought the issuance of a writ of preliminary injunction

prohibiting and restraining petitioner-officials from enforcing the order of the then Acting Director of Forestry denying the renewal of his timber license and thus allowing him to continue logging operations in the area covered by his ordinary timber license which had expired and which has not been renewed. Respondent Judge on December 28, 1968 required petitioners before this Court to answer within ten days from receipt thereof and set the application for issuance of a writ of preliminary injunction for hearing. Notwithstanding the opposition filed on January 10, 1969 by petitioner-officials, as respondents in that lower court proceeding, as well as their answer of January 13, 1969 containing special and affirmative defenses, respondent Judge on January 16, 1969 did order the issuance of a writ of preliminary injunction in favor of respondent Mendoza upon his filing of a bond in the sum of P10,000.00, followed by the writ of preliminary injunction on January 22, 1969, thus enabling him to continue his logging operations notwithstanding the explicit denial of his application for the renewal of his timber license which had expired as far back as December 16, 1966.

Hence, the present petition for certiorari and pro-hibition filed with this Court on February 25, 1969. On February 28, 1969, a resolution was adopted by this Court requiring respondents to file an answer to such petition within ten days from notice and issuing the writ of preliminary injunction restraining respondent Judge "from executing or implementing the Order" of January 16, 1969 as well as the writ of preliminary injunction issued by him dated January 22, 1969 and restraining private respondent Almario F. Mendoza from conducting any logging operations in the forest area inside or outside that covered by the expired timber license previously granted him. An answer was duly filed by private respondent on March 24, 1969 seeking the dissolution of the writ of preliminary injunction issued by this Court and dismissing the petition. It would sustain the jurisdiction of respondent Judge to issue the writ of preliminary injunction against the denial by petitioner Director of Forestry of the renewal of a timber license. It would insist on the procedural objection that petitioner instead of elevating the matter to this Court should have filed a motion for the lifting of the writ of preliminary injunction.

The case was set for hearing on May 7, 1969, but the parties failed to appear. It was then deemed submitted for decision. The non-appearance by either petitioners or respondents could be explained by an urgent motion to dismiss the petition and dissolve the writ of preliminary injunction filed by respondents on March 31, 1969 on the ground that as of March 27, 1969, the renewal of the license of respondent Mendoza was granted by the then Secretary of Agriculture and Natural Resources, one of the petitioners before this Court, revoking the previous denial of the other petitioner, the Director of Forestry, of the application for the renewal of the license. When asked to comment, petitioners submitted a pleading on May 5, 1969 stating: "1. While it is true that the Secretary of Agriculture and Natural Resources, on March 27, 1969, reversed the order of the Director of Forestry denying the renewal of respondent Mendoza's timber license, and decided to give due course to his application for renewal, the same is subject to the conditions that: 'he complies with all requirements for the renewal of licenses, including proof of adequate capital and subject to the condition that the veneer plant should be installed and operation thereon commence within one (1) year from the approval of the license.' * * * . 2. There is no showing that respondent Mendoza has complied with the aforesaid conditions. 3. Nevertheless even if respondent Mendoza had been given a renewal of his timber license, still, this petition is not academic and neither should the preliminary injunction issued by this Honorable Court be dissolved because the issue raised here is the legality of the injunction issued by the lower Court. Rather, it is the respondent's original petition before the lower Court, Civil Case No. Q-12689 of the Court of First Instance of Quezon City, that was rendered moot. And so, it is incumbent upon said respondent to move for the dismissal of his original petition before the lower Court, not to seek the dismissal of the present petition nor to dissolve the preliminary injunction issued by this Honorable Court, for the dismissal of the present petition will enable respondent Mendoza to conduct logging operations without compliance with the conditions set forth in the reversing order of the Secretary of Agriculture and Natural Resources." [4] The prayer was to deny for lack of merit such urgent motion to dismiss the petition and dissolve

the writ of preliminary injunction.

Such a pleading was met with complete and inexplicable silence on the part of respondent Mendoza. This Court is thus left with no alternative except to rule on the merits of this petition, for there is no showing that the conditions for the renewal of the timber license had been met by respondent Mendoza and, as was clearly pointed out by petitioner-officials it was within his power to render this case moot and academic by the simple expedient of having his case before respondent Judge dismissed on the ground that he had already obtained the administrative remedy which he did by such action seek from the judiciary. As thus seen in its true light, the petition calls for a decision, and as announced, the writs of certiorari and prohibition are available to petitioner-officials, respondent Mendoza having failed to exhaust his administrative remedy. Such a failure was fatal to his cause, and the error committed by the respondent Judge did give rise to the successful invocation of the plea now made before us.

1. The doctrine that there must be an exhaustion of administrative remedies received its first expression, without such language being employed, in *Ang Tuan Kai vs. Import Control Commission*,^[5] a 1952 decision. Thus: "These special civil actions against administrative officers should not be entertained if superior administrative officers could grant relief."^[6] This view given expression by Justice Alex Reyes received confirmation a year later from Justice Tuason in these words: "Incidentally, Reyes' case is an expressive confirmation of the respondents' other contention that the petitioner has a plain, speedy and adequate remedy other than a resort to the courts of justice. What the petitioner could or should have done was to appeal to the Secretary of Finance as Reyes had done."^[7] Later that same year, the then Justice Reyes employed the precise formulation, as is evident from this portion of the opinion: "Having failed to exhaust their remedy in the administrative branch of the Government, plaintiffs cannot now seek relief in the courts of justice."^[8] By 1958, the then Justice, now Chief Justice, Concepcion could explicitly affirm: "It is well settled that before one resorts to the courts of justice, such administrative remedies as may be available should first be exhausted."^[9] That is a ruling that has been, since then, uninterruptedly adhered to.^[10] There are exceptions of course, but the present proceeding does not fall within any of them.^[11]

It was incumbent then on private respondent Mendoza to exhaust his administrative remedies before filing the court action in the Rizal Court of First Instance, assigned to the sala of respondent Judge. Thus he left no alternative to petitioner-officials except to resort to this proceeding especially so as in the meanwhile he would be allowed to continue logging operations by virtue of the preliminary injunction contrary to the express language of Section 1831 of the Revised Administrative Code.

2. Would the grant of writs of certiorari and prohibition prayed for be appropriate under the circumstances? The answer must be in the affirmative. That he is to accord due respect and deference to the opinion in *Bueno vs. Ortiz* as penned by the Chief Justice.^[12] As was therein pointed out, "It is true that Patanao had had two (2) licenses, but the same had expired, one on June 30, 1955 and the other on June 30, 1957. Although he had applied for the renewal of said licenses, he never went beyond getting a ruling of the Director of Forestry giving due course to his (Patanao's) application for renewal, the consideration of which had been held in abeyance owing to Patanao's delinquency in the payment of forest charges and surcharges, as well as reforestation charges. In any event, giving due course to his application for renewal is not tantamount to granting the same, for which the approval of the department head is necessary. Again, the due course given to his application for renewal was subject to a condition precedent - submission of proof of payment of his debt to the government - which had not been complied with."^[13] This case is much stronger for the petitioners. There was a denial of the application for the renewal of the timber license. Then came that portion of the opinion which points unerringly to the conclusion that petitioners are entitled to the writs of certiorari and prohibition. Thus: "Inasmuch as the facts before the court of first instance of Agusan showed that Patanao has no timber license, his lack of cause of action against Bueno

was apparent. Consequently, it committed, a grave abuse of discretion, amounting to excess of jurisdiction, in issuing the writ of attachment and garnishment complained of in L-22978."^[14] As was emphatically asserted by Justice Sanchez in *Rallon vs. Ruiz, Jr.*,^[15] "Long familiar is the precept that failure to exhaust administrative remedies is fatal to any court review."^[16]

Private respondent, as was to be expected, certainly could take umbrage at what he considered to be a disregard of his property rights. What was regrettable was that he did not resort until later to the administrative remedies provided for under the circumstances. That way this Court could have been spared another unnecessary litigation in its already crowded docket. Members of the bar should not remain unaware that fidelity to their duties to the judicial branch of which they are officers would require that prior to taking such step as was done in this case, the way indicated by a host of decisions impressive for their number and unanimity should be followed and opportunity be granted the executive department to supply the needed corrective in the event of an alleged grievance before filing a suit.

WHEREFORE, the writs of certiorari and prohibition prayed for are granted and the order of respondent Judge of January 16, 1969 as well as the writ of preliminary injunction issued by him in pursuance of that order dated January 22, 1969 are declared null and void. The preliminary injunction issued by this Court on February 28, 1969 restraining respondent Judge from executing or implementing his order of January 16, 1969 and the writ of preliminary injunction issued by him dated January 22, 1969 are made permanent. Insofar as private respondent *Almario F. Mendoza*, his agents and representatives, or any person acting for and in his behalf or upon his orders of claiming rights under him are concerned, they are likewise prohibited from conducting any logging operations without the appropriate license from the administrative authorities. With cost against private respondent *Almario F. Mendoza*.

Concepcion, C.J., Reyes, J. B. L., Makalintal, Zaldivar, Castro, Teehankee, and Villamor, JJ., concur.

Barredo and Makasiar, JJ., took no part.

[1] Civil Case No. O-12689.

[2] According to Sec. 1831 of the Revised Administrative Code: "Except as herein provided, forest products shall be cut, gathered or removed in or from any forest only upon license from the Bureau of Forestry." (1917)

[3] *Bueno vs. Ortiz*, L-22978, June 27, 1968, 23 SCRA 1151; *The Director of Forestry vs. Ortiz*, L-24345, June 27, 1968, 23 SCRA 1151; *The Director of Forestry vs. Patanao*, L-24770, June 27, 1968, 23 SCRA 1151.

[4] Comment, pp. 1 and 2.

[5] 91 Phil. 143.

[6] *Ibid*, p. 145.

[7] *Coloso vs. Board of Accountancy*, 92 Phil. 938, pp. 940-941.

[8] *Miguel vs. Vda. de Reyes*, 93 Phil. 542, p. 544. Cf. *De la Paz vs. Alcaraz*, 99 Phil. 130 (1956); *Policarpio vs. Phil. Veterans Board*, 99 Phil. 797 (1956); *Peralta vs. Salcedo*, 101 Phil. 452 (1957); *Montes vs. Civil Service Board of Appeals*, 101 Phil. 490 (1957); *Lachica vs. Ducusin*, 102 Phil. 551 (1951); and *Gaukeko vs. Araneta*, 102 Phil. 706 (1957).

[9] *Vda. de Villanueva vs. Ortiz*, 103 Phil. 875, 884.

[10] Cf. *Nebrada vs. Heirs of Alivio*, 104 Phil. 126 (1958); *Vda. de Tan vs. Veterans Backpay Commission*, 105 Phil. 377 (1959); *Yap vs. Salcedo*, 106 Phil. 742 (1959); *Panti vs. Prov. Board*, 106 Phil. 1093 (1960); *Soriano, Jr. vs. Galang*, 107 Phil. 1026 (1960); *Llarena vs. Hon. Lacson*, 108 Phil. 510 (1960); *Ham vs. Bachrach Motor Co.*, 109 Phil. 949 (1960); *Rellin vs. Cabigas*, 109 Phil. 1128 (1960); *Madrinan vs. Sinco*, 110 Phil. 160 (1960); *Belmonte vs. Marcelo*, L-12918, April 25, 1961, 1 SCRA 1028; *Atlas Consolidated Mining and Dev. Corp. vs. Mendoza*, L-15809, Aug. 30, 1961, 2 SCRA 1064; *De los Santos vs. Limbaga*, L-15976, Jan. 31, 1962, 4 SCRA 224; *Gonzalez vs. Secretary of Education*, L-18496, July 30, 1962, 5 SCRA 657; *Cruz vs. Del Rosario*, L-17440, Dec. 26, 1963, 9 SCRA 755; *Bongcawil vs. Provincial Board*, L-20368, Feb. 28, 1964, 10 SCRA 327; *Castillo vs. Rodriguez*, L-17189, June 22, 1965, 14 SCRA 344; *Extensive Enterprises Corp. vs. Sarbro and Co., Inc.*, L-22383, May 16, 1966, 17 SCRA 41; *Manuel vs. Jimenez*, L-22058, May 17, 1966, 17 SCRA 55; *Pilar vs. Secretary of Public Works*, L-21039, Feb. 18, 1967, 19 SCRA 358; *Acting Collector of Customs vs. Caluag*, L-23925, May 24, 1967, 20 SCRA 204; *Gravador vs. Mamigo*, L-24989, July 21, 1967, 20 SCRA 742; *Millares vs. Subido*, L-23281, Aug. 10, 1967, 20 SCRA 954; *Garcia vs. Teehankee*, L-29113, April 18, 1969, 27 SCRA 937; *Ganob vs. Ramas*, L-23282, April 28, 1969, 27 SCRA 1174; *Rallon vs. Ruiz*, L-23318, May 26, 1969, 28 SCRA 332; *Macailing vs. Andrada*, L-21607, Jan. 30, 1970, 31 SCRA 126; *Villansanta vs. Bautista*, L-30874, Nov. 26, 1970, 36 SCRA 160; *Cucharo vs. Subido*, L-27887, Feb. 22, 1971, 37 SCRA 523; *Allied Brokerage Corp. vs. Commissioner of Customs*, L-27641, Aug. 31, 1971, 40 SCRA 555.

[11] Cf. *Gonzales vs. Hechanova*, L-21897, Oct. 22, 1963, 9 SCRA 230 and *Begosa vs. Chairman*, L-25916, April 30, 1970, 32 SCRA 466.

[12] L-22978. The companion cases, as noted earlier, disposed of by this opinion are *Director of Forestry vs. Ortiz*, L-24345 and *Director of Forestry vs. Patanao*, L-24770. The opinion was promulgated on June 27, 1968 and reported at 23 SCRA 1151.

[13] *Ibid*, p. 1161.

[14] *Ibid*.

[15] L-23315, May 26, 1969, 28 SCRA 331.

[16] *Ibid*, p. 342.

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