

**BUENO INDUSTRIAL & DEVELOPMENT CORPORATION,
PETITIONER VS. HON. MONTANO A. ORTIZ, MACABIO C. CONDE,
RAFAEL C. AQUINO AND R.C. AQUINO TIMBER AND PLYWOOD CO.,
INC., RESPONDENTS.**

G.R. No. L-23183. October 29, 1965

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/22f9dd3bb9ec/>

MAKALINTAL, J.:

Petitioner Bueno Industrial & Development Corporation and respondent R.C. Aquino Timber and Plywood Co. Inc., (referred to for convenience as BIDCOR and TIMPLY, respectively) are timber licensees in Agusan, where respondent Montano A. Ortiz is Judge of First Instance and respondent Macario C. Conde ex-officio Provincial Sheriff. BIDCOR holds timber license No. 61 and TIMPLY, timber license No. 68. Their concessions adjoin each other and according to the finding of the Bureau of Forestry actually overlap in certain portions.

On May 29, 1963 Rafael C. Aquino of TIMPLY was granted by the said Bureau ordinary Right-of-Way Permit No. 237 for the construction of a logging road through BIDCOR'S license area. The reference in the permit to the length and width of the road to be constructed is seventeen (17) kilometers and thirty (30) meters, respectively. Among the conditions of the permit are: (a) that no trees shall be cut outside the right-of-way; (b) that all merchangable trees cut inside it shall belong to the licensee, petitioner here, and such cutting shall be done by the permittee only under express authority; (c) that the decision of the Director of Forestry as to the exact location and boundaries of the right-of-way shall be final; and (d) that any violation of existing forest and other laws and regulations or of the rules, instructions and terms of the Permit shall be cause for cancellation of the permit and forfeiture of the permittee's bond, if any. It is also provided that the road to be constructed along the right-of-way shall be available for use by the licensee (BIDCOR) as long as it shares proportionately in the expenses of maintenance.

Before long trouble started between the two concessionaires regarding the use of the road and the cutting of logs along the right-of-way. On January 11, 1964 TIMPLY and Rafael C. Aquino filed a petition in the Court of First Instance of Agusan against BIDCOR, Valeriano C. Bueno and certain BIDCOR security guards (Sp. Civil Case No. 168) alleging that on January 3 and 4, 1964 the latter, with violence and intimidation, stopped the logging trucks of TIMPLY from hauling logs cut from its license area, and asking that a writ of preliminary injunction be issued to restrain further acts of the same nature, the injunction to be made permanent after trial. BIDCOR answered the petition, with counterclaims and a counter-petition for prohibition, injunction and mandamus as well as for a writ of preliminary injunction, alleging that the logs being hauled by TIMPLY had been taken from the BIDCOR concession covered by its license No. 61 and that the acts of violence and intimidation had been and were being committed by men of TIMPLY and not of BIDCOR.

The petition for preliminary injunction was heard and on February 10, 1964 respondent Judge issued the following order:

"WHEREFORE, the Court resolves(1) to grant petitioner's prayer for the issuance of a writ of preliminary injunction upon posting bond in the sum of P20,000.00, after which respondents, their agents, attorneys, servants, representatives, bodyguards, or any other Person acting in their behalf should be restrained and prohibited from disturbing, molesting, impeding or stopping petitioners' logging operations in any portion of the area covered by their License Agreement No. 68 and where they were cutting and hauling log on or before January 3 and 4, 1964, or from stopping the hauling by petitioners of the logs cut by them."

BIDCOR went to the Court of Appeals on certiorari against the foregoing injunction and that Court in turn enjoined the enforcement thereof. However, the certiorari case was subsequently dismissed for lack of jurisdiction, upon showing that TIMPLY had amended its petition in the main case below to include a claim for damages in the sum of P320,000.00. On July 15, 1964 BIDCOR filed the instant petition in this Court for certiorari and prohibition with preliminary injunction. The petition was at first dismissed but later on given due course on motion for reconsideration. The resolution to that effect, promulgated September 1, 1964, at the same time granted the preliminary injunctive writ, "restraining and prohibiting respondents, their agents, representatives and any person acting in their behalf, from enforcing the injunction issued by respondent Court on February 10, 1964, insofar as it may refer to the logging operations of respondents Rafael Aquino and Aquino Timber and Plywood Co., Inc. along and in the vicinity of their right of way under Road Right-of-Way Permit No. 237 inside the licensed timber area of petitioner; and restraining said respondents, their agents, representatives, or any person acting in their behalf, from conducting logging operations in and hauling logs from said area or any other portion covered by petitioner's Timber License Agreement No. 61; and restraining them further from prohibiting or in any way interfering with the use of said road right-of-way by petitioner and with its access through the same to any portion of its licensed timber area, subject to the terms and conditions stated in Ordinary Right-of-Way Permit No. 237 concerning petitioner's contributing proportionately for the maintenance, of said road."

On December 7, 1964, upon motion of BIDCOR on the ground that the injunction had been and continued to be violated, this Court issued an alias writ as follows:

"As prayed, let an alias writ of preliminary injunction be issued in L-23183 (Bueno Industrial & Development Corporation vs. Hon. Montano C. Ortiz, et al.) in order that respondents Rafael C. Aquino, R-C. Aquino Timber & Plywood Co., Inc. their agents, representatives and/or any person acting in their behalf may be made to comply with this writ of preliminary injunction; the Provincial Sheriff of Agusan and the Philippine Constabulary thereat are ordered to maintain enforcement of this writ during the pendency of this case."

And on March 23, 1965 this Court issued the following resolution:

"In G.R. No. L-23183 (Bueno Industrial & Development Corporation vs. Hon. Montano A. Ortiz, etc., et al.), respondents' motion of January 7, 1965, reiterated in their rejoinder to petitioner's manifestation and opposition, filed February 1, 1965, praying that the writ of preliminary injunction issued by this Court September 1, 1964 be clarified, is hereby DENIED, considering that the terms of the said injunction are sufficiently clear, the same having specific reference to the Road Right-of-Way Permit No. 237 pertaining to the respondents and to the Timber License Agreement No. 61 pertaining to the petitioner, the extent of each of which may be determined on location with the aid of personnel of the Bureau of Forestry, from which both said permit and license were obtained."

The principal legal issue before us is whether or not respondent Court committed a grave abuse of discretion in issuing the writ of preliminary injunction of February 10, 1964. We are convinced from the record that respondent Court did abuse its discretion gravely. As early as January 10, 1964, exactly one month before said injunction was granted, Assistant District Forester Felipe B. Abraham, Jr., stationed in Butuan City, wrote a letter to the Manager of respondent TIMPLY as follows:

"SIR:

In connection with the boundary conflict between your company and the Bueno Industrial Corporation (Con. No. 61), the information and data we have obtained during our actual verification and survey conducted in January 8, 1964 in the presence of your representative and those of the Bueno Industrial & Development Corporation and agents of the Philippine Constabulary, when plotted in your license agreement map showed that your logging operation within the vicinities of Kalaitan Creek and Lake Luy-a, is within the area of the BIDCOR and that it appears also that you are hauling the logs cut within in the right of way located inside the premises of your logging operation, contrary to the provision of your permit; that logs cut within the right of way should be turned over to the licensee in whose area the road passes.

You are, therefore, advised to stop immediately your logging and hauling operations thereat, and all logs cut therein are hereby declared subject to a seizure to be turned over to the Bueno Industrial & Development Corporation. You may continue on the construction of your right of way but we reiterate that you comply with the provisions of your permit.

The officer in charge of Bayugan Forest Station is on this date being instructed to effect the seizure and turnover of the logs in question. This is in conformity with the telegraphic instructions of the Director of Forestry, Manila, dated January 6th and 9th a copy each of which are herewith attached.

Please cooperate with us on this regard in order to prevent further trouble."

On February 1, 1964, also prior to the issuance of the injunction by respondent Court, forestry Supervisor Celestino Sabalo, also of the office of the District Forester in Butuan City, wrote a letter to respondent SIMPLY stating that he had made a survey of its road constructed pursuant to its Right-of-Way Permit No. 237 and found that it "was still operating within the area of said Bueno Industrial & Development Corporation and as such (its) logging operation now being conducted is considered illegal." The letter continued as follows:

"It can therefore, be easily seen that as you have only covered from Davao-Agusan a distance of between 10 to 12 kilometers, more or less, you are, therefore, still operating within the area of said Bueno Industrial & Development Corporation and as such your logging operations now being conducted is considered illegal.

In view of the foregoing consideration, and in compliance of the order of the Director of Forestry to the effect that I must determine the area contested by and between you and said Bueno Industrial & Development Corporation. . . I hereby cause and declare that the moratorium provided in Forestry Circular No. 319 dated January 15, 1963, is hereby enforced between you and Bueno Industrial A Development Corporation, and therefore the logging operations now being conducted by you within consession area of the Bueno Industrial and Development Corporation should be stopped accordingly. You, are therefore, hereby ordered to stop immediately your logging operations within the entire length of the area and its vicinity covered by Right-of-Way Permit No. 237 aforesaid upon said receipt hereof."

The Acting Director of Forestry issued a formal order dated March 6, 1964, the dispositive portion of which reads:

"WHEREFORE, and considering that R.C. Aquino Timber & Plywood Co., Inc. was granted a right-of-way of only twenty (20) kilometers from Agusan-Davao Highway to reach its concession before starting logging operations and considering that said licensee is actually logging in an area located in a distance of from 10 to 12 kilometers from Agusan-Davao Highway, the order dated February 1, 1964 of Forestry Supervisor Celestino Sabalo to stop its logging operations inside the Bueno Industrial & Development Corporation shall be, as hereby it is confirmed. Said R.C. Aquino Timber & Plywood Co., Inc. is, therefore, hereby ordered to stop immediately said logging operations with a warning that upon failure to do so this Office will take drastic action against said licensee."

The allegation of TIMPLY in its petition below as well as in its answer to BIDCOR'S petition before us, to the effect that on January 3 and 4, 1964 the road it had constructed had already reached the area covered by its own

timber license No. 68 and that consequently it did not violate the conditions of its Right-of-Way Permit No. 237 when it cut and hauled logs on those dates, is belied by the findings of the Forestry officials, and its continued operation in the area was a defiance of the latter's order imposing a moratorium on such operation. Respondent Court, in granting the preliminary injunction complained of, in effect authorized respondent TIMPLY to continue cutting and hauling logs within what appeared from the evidence at hand to be BIDCOR'S concession.

On October 1, 1964 the Provincial Sheriff of Agusan submitted his return of service of the writ of injunction issued by this Court. It appears from said return that when the injunction was served on September 29 and 30, 1964, with the assistance of two Foresters and two Constabulary officers, it was found that TIMPLY was logging along the pilot road constructed by the men of R.C. Aquino and inside the timber area of petitioner Bueno Industrial & Development Corporation as tentatively established by Foresters Castañeto and Galapia, respectively.

Upon motion of BIDCOR the alias writ of preliminary injunction of December 7, 1964 was issued, at the same time ordering the Provincial Sheriff of Agusan and the Philippine Constabulary thereat to maintain its enforcement. The Sheriff's return dated January 9, 1965 shows that when the alias writ was served the previous day, January 8, the Foresters who accompanied him were not permitted by the guards of TIMPLY to enter the area in question at all, and that the Sheriff himself, together with the PC soldiers who were allowed to proceed, were stopped altogether at kilometer 17 of the road right-of-way despite the fact that according to the findings of the Forestry officials the BIDCOR license area extended beyond that point.

Respondent TIMPLY contends, in justification of its actuations, that in the right-of-way granted to it by the Bureau of Forestry (through the BIDCOR license area) the distance stated is 17 kilometers, from which statement already TIMPLY property. Presumably relying on this inference, TIMPLY filed a motion to clarify the writ of preliminary injunction we had issued. Because the statement of distance in the right-of-way permit was necessarily a mere estimate, descriptive and not restrictive in character, and obviously was not meant to be a delimitation of the extent or the boundaries of the BIDCOR license area through which the road was to be constructed by TIMPLY, the motion for clarification was denied in the resolution of this Court of March 23, 1965. Thus said resolution states that "the terms of the injunction are sufficiently clear, the same having specific reference to the Road Right-of-Way Permit No. 237 pertaining to the respondents (TIMPLY) and to the Timber License Agreement No. 61 pertaining to the petitioner (BIDCOR), the extent of each of which may be determined on location with the aid of personnel of the Bureau of Forestry, from which both said permit and license were obtained."

The clear, unequivocal import of the foregoing resolution is that any controversy concerning the extent of the right-of-way, or any question as to how far it lies within the area covered by petitioner's license, must be determined by the Bureau of Forestry, which is the proper government office invested with authority to do so and whose decision "as to the exact location and boundaries of the land granted shall be final," according to the express terms of paragraph No. 3 of Road Right-of-Way Permit No. 237. It certainly does not speak well of TIMPLY that it should refuse entry to Forestry employees and prevent them from performing their duties, especially considering that the area involved belongs to the Government and not to either one of the contending licensees.

On June 22 and 23, 1965 the alias writ of injunction was again served pursuant to our resolution of March 23rd. In the joint return of service submitted on June 25th by representatives of the Provincial Sheriff, of the Provincial Commander of the Constabulary and the District Forester for Agusan, it is stated that "at the time of service the actual operation of R.C. Aquino with skyline is found between kilometer 21 and 22 of their road right-of-way and more or less four (4) kilometers inside the area of the petitioner herein from the defined boundary line established by the Galapia-Castañeto survey."

As late as July 22, 1965 the PC detachment in the area in controversy found and reported to the Commanding officer in Butuan City the names of twenty-two persons of TIMPLY working in the area covered by the injunction issued by this Court.

Mention has been made hereinbefore of some overlapping between the areas covered by timber licenses Nos. 61 (BIDCOR) and 68 (TIMPLY). The same, according to the Bureau of Forestry, had been definitely established by actual ground survey conducted by Foresters Rafael Castañeto and Pedro Galapia. In a letter dated October 14, 1964 addressed to the District Forester in Butuan City, the Assistant Director of Forestry made reference to the fact that TIMPLY was logging inside the overlapping areas and directed the District Forester to enforce a previous order of the Bureau imposing a moratorium on all logging operations within said areas. On April 30, 1965 the Assistant Director again wrote a letter to the District Forester calling the latter's attention to the injunction issued by this Court and directing the District Forester to request PC assistance in the enforcement of the moratorium previously ordered.

The foregoing instruction of the Forestry Director, however, was soon frustrated. For on May 21, 1965 TIMPLY filed a new complaint in the Court of First Instance of Agusan against the Philippine Constabulary and the Forestry officials with a prayer for preliminary injunction to restrain implementation of the letter of April 30, 1965. BIDCOR, which was not made a party defendant in that case, intervened and objected to the injunction prayed for on the ground that it would be contrary to the injunction issued by this Court in the instant case. Over said objection the Court of First Instance issued the injunction nevertheless, and after declaring the Constabulary in default for failure to answer the complaint rendered a decision against it, making the injunction permanent.

The aforesaid proceeding in this new case is now the subject of another petition for certiorari before us (G.R. No. L-24822), wherein we issued a preliminary injunctive writ; and we need not dwell at any length on this development other than express amazement that the trial Court should enjoin the Philippine Constabulary and the Forestry officials from performing their duties under the law and in accordance with the express terms of the alias writ of injunction issued by us on December 7, 1964 and of our resolution of March 23, 1965, of which the trial Court had due cognizance.

It is, in our opinion, just and legal that where the license areas of BIDCOR and TIMPLY overlap, as found by the Bureau of Forestry, no logging operations should be conducted by either licensee. This is the import of the injunction we have issued against TIMPLY, considering that it is the party which insists on conducting such operations; and as far as BIDCOR is concerned there is no showing that it is guilty of the same acts which should be similarly enjoined. The Bureau of Forestry has made no finding that the moratorium on logging operations imposed by it has ever been ignored by BIDCOR.

Wherefore, without ruling for the present on the motions for contempt filed by petitioner against respondents, the writ prayed for is granted. The order of respondent Court dated February 10, 1964 and the writ issued pursuant thereto are set aside; and the preliminary injunction of September 1, 1964 as well as the alias writ of December 7, 1964 issued by this Court are hereby made permanent, with instructions to the corresponding officials of the Bureau of Forestry and of the Philippine Constabulary to take such steps as may be proper and necessary so that this judgment may be complied with. Costs against private respondents.

Bengzon, C. J., Bautista Angelo, Concepcion, Dizon, Regala, and Bengzon, J. P., JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.