

**EVENER J. VILLASANTA, REX ROBERTS, EARL T. CONE, JR. AND
BALER FOREST PRODUCTS, INC., PETITIONERS, VS. PEDRO D.
BAUTISTA, RODOLFO BAUTISTA, BENJAMIN ALETA, COUNCILORS
JUAN ORTIZ...**

G.R. No. L-30874. November 26, 1970

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Original action for mandamus with preliminary injunction.

Petitioners Villasanta, Roberts and Cone as president, general manager and production manager, respectively, of their co-petitioner, Baler Forest Products, Inc., instituted on August 21, 1969 the present action on behalf of said corporation as the holder of Ordinary Timber License No. 039-71 covering a forest concession of about 21,600 hectares in the provinces of Nueva Vizcaya, Nueva Ecija and Quezon. They averred in their verified petition, supported by the affidavits of Cone, the corporation's assistant production manager, and its chief security officer that in the afternoon of August 15, 1969, the principal respondent Pedro D. Bautista (hereinafter simply referred to as Bautista) with his co-respondents and eight other men, all heavily armed, entered the corporation's logging area in Maria Aurora, Quezon and through force and intimidation stopped the corporation from proceeding with its logging and export operations. They further urged that unless respondents' illegal acts were restrained, great and irreparable injury would result with the corporation's machineries and logging equipment worth more than P1.5 million and hundreds of cut logs in the area exposed to deterioration and its being unable to meet its export commitments, particularly a \$190,000-shipment scheduled for loading on board a vessel arriving on August 22, 1969, since its appeals to the various government agencies proved unavailing.

Upon petitioners' filing of a P10,000-injunction bond, the Court issued ex-parte on August 22, 1969 a writ of preliminary injunction restraining respondents from interfering with the exercise of the individual petitioners' rights as officers of the corporation and the latter's rights to cut and remove timber from its concession under its timber license.

Respondents, in their answer with supporting affidavits, while denying the commission of any acts of force or harassment, admitted in substance that they did enter the logging area on August 15, 1969, on which occasion respondent Bautista, per his counter-affidavit,[1] "requested" Cone "to desist managing the logging operations of the corporation in accordance with the letter-policy of the Bureau of Forestry" and "to discontinue the illegal logging operation being done under him." Bautista averred that his co-respondent, Councilor Ortiz of Maria Aurora, Quezon had at his request "taken along a number of municipal policemen and a Philippine Constabulary officer . . . for our safety and protection, considering that the logging area of the corporation is an Ilongot region."

The Forestry Bureau's "letter policy" referred to by respondents was that dated July 16, 1969 written in reply to Bautista's query of July 14, 1969 on "the proposed inclusion of an American in our company as a majority stockholder" that "the purchase by an American citizen or any other person other (sic) than present members of

the working unit of majority shares of stock in your corporation cannot be allowed by this office." [2] The burden of respondents' answer is that individual petitioners were "irregularly elected" at the corporation's annual stockholders' meeting of July 18, 1969 to their respective positions; that their election is contrary to the existing laws and rules of the Forestry Bureau, and that, therefore, their exercise of the powers of such corporate positions is "illegal"; and that "the inclusion of petitioners Roberts and Cone, as majority stockholder and production manager, respectively, of petitioner corporation is illegal and contrary to law as shown by the (said) letter-policy of the Bureau of Forestry", since "petitioners Roberts and Cone are American citizens and are legally disqualified from exercising the powers allegedly conferred upon them as officers of petitioner corporation."

Petitioners, in their reply to answer, supplemented the allegations of their petition with numerous corporate documents and papers, as follows: that petitioner corporation was organized in May, 1967 when respondents Bautista and Aleta who originally held a timber license for 4,200 hectares secured the forestry bureau's approval for consolidation or merger of their area with that of Silvestre Borja, Jr. for 17,400 hectares (and subsequently with Angela Vda. de Sedeco's area of 3,000 hectares) for a total consolidated area of 24,600 hectares to be operated by the corporation as the working unit pursuant to the presidential directive of January 7, 1967 setting the minimum area of 20,000 hectares with a minimum annual cut of 25,000 cubic meters for the grant or renewal of timber licenses. The corporation at the time of organization bore the name of P. D. Bautista Enterprises, Inc., which was amended later in the year to its present name of Baler Forest Products, Inc. Simultaneously with the incorporation of the corporation, respondent Bautista, with the conformity of the corporation represented by him as president thereof, executed an agreement with petitioner Roberts for the latter to provide it with working capital, machineries, equipment and facilities for the operation of the timber concession, in return for which Roberts would subscribe to 1,500 shares or 75% of the corporation's P200,000.00 capital stock (2,000 shares with a par value of P100.00 per share), "and will have full control and management of the corporation and its operation." Petitioner Roberts paid in P150,000.00 in full payment of his subscription and advanced more than P400,000.00 to construct approximately 35 kilometers of roads on the concession and to finance its operation. At special meetings of the corporation's board of directors held on March 16, 1968 and December 12, 1968, presided by respondent Bautista as president and board chairman, petitioners Roberts and Cone were unanimously named General Manager and Executive vice-president and production manager, respectively, of the corporation. At the corporation's annual stockholders' meeting of May 18, 1969, said respondent Bautista was not reelected as President nor board member of the corporation allegedly for the reason that as president "he, through persons or logging contractors whom he employed, tried to cut and remove logs from a distant portion of the concession for his own personal account and benefit," but he was, however, appointed as second-vice-president of the corporation at the board's organization meeting of the same day.

Petitioners took issue with respondents in the latter's contention that petitioners Roberts and Cone as American citizens are legally disqualified from exercising the powers of their positions in the corporation. They countered that "there is no law which prohibits said petitioners as American citizens from so exercising said powers" and that the alleged "letter-policy" of the forestry bureau "is completely erroneous, said letter having been issued on wrong premises based on false allegations and assumptions made by Pedro D. Bautista, and legally incorrect." They submitted the Securities & Exchange Commissioner's ruling of September 26, 1969, after investigation, that Roberts' "subscription to all the unsubscribed and unissued shares of the corporation was approved by a majority of members of the board of directors and a majority of the subscribed capital stock" and "is, under the Corporation Law, valid." [3] The Securities & Exchange Commissioner's ruling added "(H)owever, as to whether the subscription violates the rules and regulations of the Bureau of Forestry thereby making the same void although valid under the Corporation Law, the Commission is not competent to decide."

Respondent Bautista, to refute the foregoing contentions of petitioners, submitted in turn the Bureau of Forestry

Acting Director's letter to his counsel of October 3, 1969, holding that Bautista's agreement of May 11, 1967 with Roberts amounts to a virtual transfer of the timber license of the corporation and the eventual separation of Bautista from the working unit, in violation of conditions of the timber license as well as of the philosophy underlying the presidential directive of January 7, 1967, such that the agreement "cannot be accepted or approved by this office and as such the same is without force and effect insofar as this office is concerned,"[4] and the Securities & Exchange Commissioner's letter to him of October 23, 1969 that "if the opinion of the Director of Forestry dated October 3, 1969 is correct, the subscription of Mr. Rex Roberts is without legal consideration being contrary to Forestry rules and regulations and the directive of the President, and although approved by the Board of Directors would be ultra vires."[5]

Petitioners, in rejoinder, replied that said opinion of the Director of Forestry "was rendered surreptitiously and without notice to petitioners, much less giving them a chance to be heard."[6] They asserted that Forestry rules contained only a general prohibition against transfer of a timber license within three years after its issuance, inferring that such prohibition is not applicable to transfers made pursuant to the presidential directive of January 7, 1967; and that "the sale or trans-fer of the shares of a licensee corporation is not prohibited by any law, rule or regulation. The technical and financial capacity of the corporation itself and not that of the individual stockholders are the ones considered in granting the license."[7]

1. What clearly emerges from the foregoing is that the conflicting contentions and arguments of the parties as to the alleged irregularity and illegality of the election of the individual petitioners as officers of the corporation and their legal disqualification to be elected as such and to manage the corporation's logging operations raise collateral issues which may not be properly ventilated in the present special action for mandamus with injunction. They involve questions of fact and of law which have to be duly tried and heard on notice to all parties affected, and with the evidence adduced before the proper administrative agencies, with reference to the question of the legality and valid-ity of the individual petitioners joining the corporation with Roberts as controlling stockholder, notwithstanding their not being holders of timber licenses consolidated and transferred to the corporation as the working unit and notwithstanding Roberts' American citizenship. As to the question of the legality of the election of the individual petitioners as directors and officers of the corporation, respondent Bautista asserts barely that he had protested the same, notwithstanding the fact admitted by him that he himself nominated at the stockholders' meeting the entire 'incumbent directors', including Villasanta and Roberts, for re-election for another term, and that petitioners control 90% of the corporation,[8] but he does not inform the Court of any action that he has taken to judicially contest their election. Such a question is likewise beyond collateral attack in the present case, Bautista's recourse being to oust them by quo warranto proceedings under Rule 66 or in an appropriate case, to enjoin them as alleged usurpers.

2. The case at bar is a special civil action of mandamus with injunction dealing solely with the limited issue of whether or not the individual petitioners may exercise their rights as officers of the corporation and as such conduct its logging and export operations free from any physical restraint or force on the part of respondents. All other questions of fact and law with respect to the legality or illegality of the individual petitioners' election as officers and the discharge of their functions as such as well as of the acquisition by Roberts of the controlling share in the corporation insofar as they affect the timber license of the corporation, are questions that have no bearing on the limited issue at bar and must be ventilated in separate and independent actions, be they administrative or judicial as above indicated.[9]

As a matter of fact, it is indicated in the record that the Forestry Directors' letter-ruling of October 3, 1969 against the Bautista-Roberts agreement of May 11, 1967 granting Roberts virtual control of the corporation is presently pending appeal before the Secretary of Agriculture & Natural Resources.[10] This is the proper forum where the

parties may properly thresh out the pertinent facts as well as obtain an authoritative ruling on "the philosophy underlying the promulgation of the January 7, 1967 presidential directive", claimed by the Forestry Director to be violated by said agreement. The status of the other licensee-members of the working unit, viz Borja (17,400 hectares) and Sedeco (3000 hectares) who appear to have sold out their holdings to Roberts under the agreement, leaving Bautista with Aleta (4,300 has.) as the only original licensees-shareholders in the corporation -- about which the parties have remained silent -- may therein be brought into proper focus. Only after all the facts shall have been properly determined and the Secretary as department head shall have rendered his decision may the appropriate judicial review by the competent court be availed of by the party who feels aggrieved thereby,[11] with the Secretary as the decision-making authority properly impleaded as an indispensable party.

3. On the limited issue at bar which is strictly an internal question between petitioners and respondents Bautista and Aleta as majority and minority shareholders, respectively, of petitioner corporation, the Court is satisfied that petitioners are entitled to the writ and injunction prayed for, restraining respondents from interfering by force with the exercise by individual petitioners of their rights as officers of the corporation and the latter's rights to cut and remove timber from its concession under its timber license.

The mere fact that Bautista claims that he protested the results of the corporation's annual stockholders' meeting of May 18, 1969, wherein he was not reelected as president nor board member does not warrant nor justify his interference with the individual petitioners' exercise of their functions as the duly elected executive officers of the corporation, nor his anomalous action of holding himself out to the public and to the government agencies concerned as still the president of the corporation. Even if he had instituted quo warranto proceedings to question the said election -- and the record does not show that he has in fact instituted such action -- he would not be en-titled, pendente lite, to a preliminary injunction to prevent petitioners from discharging their offices and to restore him in office as corporate president.[12] The Rules of Court[13] provide for the proper judgment to be rendered in such cases, in the event he makes out his case, such as the holding of a new election.

As to respondents' interference with the corporation's logging operations, it is obvious that respondent Bautista and his co-respondents had no authority in law to enter the corporation's logging area with "a number of municipal policemen and a Philippine Constabulary officer" to "request" Cone "to desist managing the logging operations of the corporation in accordance with the letter-policy of the Bureau of Forestry." The proper office to enforce said "letter-policy" is that of the Director of Forestry and his district foresters and assistants, not respondent Bautista who had no official capacity but a mere private interest in the corporation as a minority shareholder. Neither did the municipal policemen nor the P. C. officer have any authority to intervene in the matter, in the absence of any official mission, request or order from the Forestry Bureau or their superior officers, much less to deploy themselves in the concession area and with threats, stop the corporation's employees from working in the area, as charged in the verified petition and supporting affidavits.

The actual presence of armed men in the area tending to interfere with the corporation's operations is further borne out by the letter-request for investigation to the Chief of Police of Maria Aurora, Quezon, of August 25, 1969 of the Court's deputy sheriff, Eduardo Corpuz, noting the presence of "two men displaying two high powered firearms, one thompson and one greasegun inside the log-pond of the (corporation)" at the time that he served the Court's writ of preliminary injunction in the afternoon of August 22, 1969.[14]

4. The writ and injunction herein issued are but in enforcement of the Rule of Law. For so long as individual petitioners appear in the corporate records to be the duly elected executive officers of the corporation, and have not been administratively or judicially enjoined from discharging their functions, respondents led by Bautista are bound to refrain from interfering with the exercise of their rights and the corporation's operation of its concession which would redound to the benefit of all its stockholders, including Bautista. Bautista has been free,

notwithstanding the pendency of this case, and remains free, after this decision, to avail of and pursue any and all remedies, administrative, intra-corporate and judicial, in connection with his claims against the validity and legality of his agreement of May, 1967 with Roberts, of the election of individual petitioners as the corporation's executive officers, of Roberts' and Cone's management of the corporation, as well as his latest fears expressed in his various "urgent motions for early decision" that "continuing violations of Forestry Rules and Regulations by those presently in charge of petitioner corporation would eventually lead to the probable cancellation of the ordinary timber license." Bautista labors under the erroneous premise that an adverse decision against petitioners on these questions would restore him as president of the corporation, oblivious of the separate corporate personality of the corporation wherein individual petitioners have a 90% control and of the fact that his original license for 4,200 hectares has already been transferred with two others totalling 20,400 hectares to the corporation which is now the licensee of all merged areas in compliance with the presidential directive of January 7, 1967. But these questions are all extraneous and collateral and cannot be resolved in the case at bar. This case in no manner inhibits the forestry office from exercising its authority of supervision and ordering the temporary suspension "to protect the interest of all parties concerned -- (of) logging operations within the working unit" per the Forestry Director's letter of February 5, 1970, nor the Department Head from acting on and deciding the corporation's pending appeal, subject to appropriate judicial review by the competent court, as already stated above.

5. Finally, a word on respondents' insistence on their contention, citing inapplicable appellate court decisions, that 'a pleading which lacks the required verification is fatal (sic) and does not confer jurisdiction.' [15] Respondents' contention that petitioner Villasanta's (the corporation's president) verification of the petition "that the allegations therein contained are true and correct" is "insufficient" for non-compliance with the Rule's requirement that affiant state that the allegations are "true of his own knowledge" [16] is untenable. The Court has consistently held that the reglementary phrase "true of his own knowledge" is not a talismanic formula, the use of which would insure the granting of a petition and non-use whereof would result in a decree of dismissal. It has ruled absence of verification not to be fatally defective in meritorious cases. [17] What is important is that the object of the Rule, to insure good faith and veracity in the material averments of the petition, be complied with, so that the court may properly act on the case. [18] Here, the petition has complied with the requirement in form and in substance. Villasanta in effect certified of his own knowledge to the truth of the petition as a whole, but with reference to the averments in paragraph 8 of the petition as to respondents' acts of intrusion and coercion at the concession area on August 15, 1969, specifically submitted with the petition the affidavits of on-scene witnesses Cone and two other company officials attesting thereto of their own knowledge.

ACCORDINGLY, subject to the Court's observations as above-stated, particularly in paragraphs 3 and 4 hereof, the writ prayed for is hereby granted. The writ of preliminary injunction heretofore issued is hereby made permanent, likewise without prejudice to any remedies, administrative intra-corporate and judicial as may be availed of by respondents, who are ordered jointly and severally to pay the costs of suit.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Ruiz Castro, and Barredo, JJ., concur.

Fernando, J., in the result.

Zaldivar and Villamor, JJ., took no part.

Dizon and Makasiar, JJ., on leave.

[1] Annex 6, Answer.

[2] Annexes A and B of Annex 6, Answer.

- [3] Annex "L".
- [4] Annex "11".
- [5] Annex "12".
- [6] Petitioners' memorandum, Rollo, p. 200.
- [7] Petitioners' memorandum, Rollo, pp. 206-207; emphasis copied.
- [8] Respondents' reply memorandum, Rollo, pp. 243-257.
- [9] See *Silen vs. Vera*, 64 Phil. 868 (1937); *Castillo vs. Ramos*, 78 Phil. 809 (1947); *Flordeliza vs. Flordeliza*, 91 Phil. 548 (1952); *Luna vs. Encarnacion*, 91 Phil. 532 (1952); *Staples vs. Buenaflor*, 101 Phil. 1244 (1957); *Bautista vs. Peralta*, 18 SCRA 223 (Sept. 29, 1966).
- [10] Annex B, Respondents' third urgent petition for early decision dated June 29, 1970.
- [11] See *Macailing vs. Andrada*, 31 SCRA 126 (Jan. 31, 1970) and cases cited.
- [12] See *Silen vs. Vera*, *Supra*, fn. 9.
- [13] Rule 66, Section 11.
- [14] Respondents' Annex 5, Rollo, p. 78.
- [15] Respondents' motion to dissolve writ, Rollo, p. 51; Respondents' memorandum, p. 35.
- [16] Rule 7, section 6.
- [17] *Macailing vs. Andrada*, *supra*, fn. 11; See *Guerra Enterprises Co. , Inc. vs. CFI*, 32 SCRA 314 (April 17, 1970) *Cajefe vs. Fernandez*, 109 Phil. 743 (1960); *Madrigal vs. Rodas*, 80 Phil. 252 (1948).
- [18] *Phil. Bank of Commerce vs. Macadaeg*, 109 Phil. 98, (1960).

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