

GUSTAVO A. SUAREZ, PETITIONER, VS. HON. ANDRES REYES, ETC. ET AL., RESPONDENTS

G.R. No. L-19828. February 28, 1963

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Petition for certiorari with preliminary Injunction.

The facts of the case are: Petitioner Gustavo A. Suarez and respondent Timberman Corporation, as well as three others, submitted to the Director of Forestry competing bids for a timber concession in Labason, Zamboanga del Norte. The Director of Forestry granted the concession to respondent corporation. On Appeal, the Secretary of Agriculture and Natural Resources confirmed the award (DANR Case No. 2154), whereupon petitioner appealed to the President of the Philippines. Pending appeal, specifically on July 26, 1961, the Director of Forestry issued to respondent Temporary Timber License No. 399-'62 (to expire June 1962) over the same area, contrary to the directive (Annex B) issued on June 13, 1961 by the Executive Secretary, acting for the President, that "pending resolution of the appeal, execution of the decision appealed from be held in abeyance." On September 4, 1961 the President, again acting through the Executive Secretary, reversed the decision of the Secretary of Agriculture and Natural Resources and awarded the forest concession to petitioner (Annex A). On December 13, 1961 the operation of the concession by respondent under his temporary license was ordered stopped by the Director of Forestry, by telegram sent to the District Forester at Dipolog, Zamboanga del Norte. On January 19, 1962 the President denied respondent's first motion for reconsideration (Annex A-1). A second motion for reconsideration was filed, but before it was resolved respondent, on January 27, 1962, filed in the Court of First Instance of Rizal, against the Honorable Amelito Mutuc, as Executive Secretary, the Honorable Benjamin Gozon, as Secretary of Agriculture and Natural Resources, Tiburcio Serevo, as Director of Forestry, and Gustavo Suarez, a petition for certiorari and/or prohibition with preliminary injunction (Civil Case No. 6968). Claiming that the decision of the President was rendered with grave abuse of discretion amounting to lack or excess of jurisdiction because it was based on hearsay evidence which had not been presented during a regular hearing, but merely attached as annexes to memoranda filed with the Secretary of Agriculture and Natural Resources or submitted ex parte to the office of the Executive Secretary, respondent sought in the court below (1) to restrain by writ of preliminary injunction the enforcement of the decision of the President of September 4, 1961; (2) to restrain the cancellation of Temporary Timber License No. 399-'62 and (3) to declare null and void the decision of the President which awarded the timber area in question to petitioner. On January 29, 1962 respondent Judge issued the writ of preliminary injunction asked for (Annex C), ordering the forestry officials to refrain (a) from cancelling, withdrawing, or otherwise rendering without effect the forest license issued to the corporation; (b) from issuing to any other person any license, permit, or any other authority to utilize the same area; and (c) in the event that any such steps had already been taken, then ordering the said officials to restore the status quo by maintaining in effect the said license issued to the corporation for the area in question. On March 6, 1962 the President denied respondent's second motion for reconsideration. In Civil Case No. 6968 herein petitioner's motions to dismiss the same and to lift the writ of preliminary injunction were both denied by respondent Judge (Annexes D and E).

Hence on June 8, 1962 petitioner filed in this Court the present petition which (1) seeks issuance of a writ of preliminary injunction restraining respondent Judge from taking cognizance of Civil Case No. 6968 and from continuing to enforce the writ of preliminary injunction he had issued therein; and (2) prays that, after hearing, the writ of preliminary injunction sought be made permanent and the orders of respondent Judge dated January 29, 1962 (issuing the injunction), March 16, 1962 (denying herein, petitioner's motion to dismiss and to lift the injunction) and April 17, 1962 (denying motion for reconsideration) be set aside and declared null and void. On July 31, 1962 petitioner filed an urgent motion reiterating his prayer for issuance of writ of preliminary injunction on the ground that respondent was seeking to charge him with contempt in the lower court. On September 6, 1962, upon petitioner's filing the requisite bond, this Court issued a writ restraining respondent Judge and respondent corporation from disturbing the status quo, the former from taking cognizance of Civil Case No. 6968 and from continuing to enforce the writ of preliminary injunction issued therein. Upon motion of respondent corporation the Court clarified the writ, "particularly the proviso thereof stating 'without disturbing the status quo,' in the sense that said writ does not cover or affect that portion of the injunction issued by the trial court on January 29, 1962 ordering the respondents below to 'refrain from . . . issuing to any other person any license, permit or any other authority to utilize the same area,' which portion is deemed effective and in force."

The issue here is whether respondent Judge acted without or in excess of jurisdiction or with grave abuse of discretion in taking cognizance of Civil Case No. 6968 and in issuing the writ of preliminary injunction therein.

Indisputably, the Director of Forestry has jurisdiction and authority over the granting of licenses for the use of our public forests (Section 1815, Revised Administrative Code) subject to review by the Secretary of Agriculture and Natural Resources (Section 84, *id.*) who has direct control, direction and supervision over the Bureau of Forestry and may repeal, or modify the decisions of its Director (Section 79(c), *id.*). The decision of the Secretary may in turn be reviewed by the President of the Philippines in the exercise of his power of control of all executive departments and bureaus (Article VII, Section 10(1), Philippine Constitution). These three officials, therefore, acted within the scope of their respective jurisdictions in dealing with the forest concession in question.

When respondent corporation filed his petition in respondent court on January 27, 1962, the office of the President had already revoked the decision of the Secretary of Agriculture and Natural Resources awarding the forest concession to the said corporation and had already awarded the same to petitioner Suarez. Not only that, but the office of the President had also denied the corporation's motion for reconsideration and stated that the case was "closed insofar as this, office is concerned." In effect, therefore, the petition filed before respondent court was for a review of the decision of the Office of the President, that being the last and final administrative action in the premises which was in force at the time.

The rule concerning judicial review of administrative decisions with respect to disposition of public lands has been stated in the case of *Pajo et al. vs. Ago et al.*, 108 Phil., 905, June 30, 1960, as follows:

"Anent the first, issue, there can be no question that petitioner Director of Forestry has jurisdiction over the grant or renewal of respondent Ago's timber licenses (Sec. 1816, Rev. Adm. Code); that petitioner Secretary of Agriculture and Natural Resources, as department head, is empowered by law to affirm, modify, or reject said grant or renewal of respondent Ago's timber license by petitioner Director of Forestry (Sec. 79[C], Rev. Adm. Code); and that petitioner Executive Secretary, acting for and in behalf and by authority of the President has, likewise, jurisdiction to affirm, modify, or reverse the orders regarding the grant or renewal of said timber license by the two aforementioned officials (Art. VII [11] (I), Const.; Sec. 75, Rev. Adm. Code)."

* * * * *

"In the case of *Espinosa et al. vs. Makalintal, et al.* (G.R. No. L-1334, August 29, 1947, 45 Off. Gaz. 712), we held that the powers granted to the Secretary of Agriculture and Commerce (Natural Resources) by law

regarding the disposition of public lands such as granting of licenses, permits, leases, and contracts or approving, rejecting, reinstating, or cancelling applications, or deciding conflicting applications, are all executive and administrative in nature. It is a well-recognized principle that purely administrative and discretionary functions may not be interfered with by the courts. In general, courts have no supervising power over the proceedings and actions of the administrative departments of the government. This is generally true with respect to acts involving the exercise of judgment or discretion, and findings of fact. Findings of fact by an administrative board or official, following a hearing, are binding upon the courts and will not be disturbed except where the board or official has gone beyond his statutory authority, exercised unconstitutional powers or clearly acted arbitrarily and without regard to his duty or with grave abuse of discretion. And we have repeatedly held that there is grave abuse of discretion justifying the issuance of the writ of certiorari only when there is capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction (*Abad Santos vs. Province of Tarlac*, 67 Phil., 480; *Tan vs. People*, 88 Phil., 609), as where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility amounting to an evasion of positive duty, or to a virtual refusal to perform the duty enjoined, or to act at all in contemplation of law (*Tavera-Luna, Inc. vs. Nable*, 67 Phil., 340; *Alafriz vs. Nable*, 72 Phil., 278.; *Liwanag vs. Castillo*, 106 Phil., 375). We have, likewise, repeatedly held that the lack of jurisdiction which entitles one to the remedy of certiorari, is that which is from the beginning, or having jurisdiction, the court, board, or officer-oversteps it while acting thereon (*Leung Ben vs. O'Brien*, 39 Phil., 182; *Silvestre vs. Torres*, 57 Phil., 885; *Namoy vs. Secretary*, 106 Phil., 1046)."

Whether or not the Executive Secretary, acting for the President, committed a grave abuse of discretion in overruling the Director of Forestry and the Secretary of Agriculture and Natural Resources, and in cancelling the award to the Timberman Corporation and giving it to petitioner Suarez instead, is a question that should be decided after proper hearing on the merits of the petition pending before respondent court. We are not prepared to say at this stage that said court is without jurisdiction to take cognizance of the case at all. At best, herein petitioner's motion to dismiss on the ground that in the light of circumstances of this case, the decision of the President is not subject to judicial review, is not indubitable, and the denial thereof by respondent court does not, in our opinion, constitute such grave abuse of discretion as to be correctible through the instant petition for certiorari.

But by the same token, that is, because there has yet been no hearing on the merits before respondent court, the decision of the President has in its favor the presumption of regularity and observance of due process. A perusal of the text of the said decision reveals that it is supported by findings of fact which, in the opinion of the deciding authority, justify the conclusion arrived at and the action taken. Those findings are that respondent "is the one actually operating, financing and managing the Maravilla Enterprises and that Serafin Maravilla, the holder of O.T.L. No. 760-'60, merely collects a royalty for the logs out under this license from the" respondent; that respondent's "actual operation of two forestry areas licensed in the names of other persons, made possible under the guise of a contract of lease of logging equipment and exclusive sale of logs, is indeed a clever scheme of clothing an illegal act with an apparent color of legality"; that "the policy of spreading benefits to the greatest number possible has been established and consistently followed in the dispensation of forestry privileges"; that respondent, "which incidentally is a corporation whose stockholders are Filipino citizens of Chinese descent," is not fit to be a timber concessionaire because of its direct interest in the Maravilla Enterprises; and that petitioner "as stated in his bid application, has cash capital of P15,400.00, real property worth P39,500.00, logging equipment consisting of 3 trucks and 1 tractor, and some experience in logging operations."

Respondent corporation, in its petition filed in the court below, assails the foregoing findings on the ground that they are based on hearsay, consisting merely of affidavits of several individuals. The nature, competency and weight of such evidence to support the administrative decision complained of should be passed upon only after

hearing. In the meantime, the matter should be left to take its course in the administrative sphere, and the interposition by respondent court of its judicial power to check or alter that course is premature and constitutes a grave abuse of discretion.

The preliminary injunction issued by said court tends to create a situation which was obviously unintended. The temporary timber license issued by the Director of Forestry to respondent corporation was supposed to expire in June 1962. In fact the operation of the forestry concession under that temporary license was ordered stopped by said official on December 18, 1961, pursuant to the directive of the President. By reason of the injunction, however, which ordered respondent officials below not only to refrain from cancelling or withdrawing such license but also to maintain it in effect, there has been a virtual extension of the original period granted. Needless to say, the authority to extend the life of a timber license, as the authority to issue one in the first place, belongs exclusively to the executive department subject only to the power of review by the courts upon proper grounds as stated in the case of *Pajo et al. vs. Ago*, supra. Such grounds have not yet been shown in this case, no hearing having been held in respondent court when it issued the writ of injunction complained of.

The writ prayed for is denied insofar as the petition seeks to prohibit respondent court from taking cognizance of Civil Case No. 6968, and the preliminary injunction issued by us restraining said court from doing so is dissolved; and the writ is granted insofar as the injunction issued by respondent court is concerned, which injunction is hereby annulled and set aside. Costs against respondent Timberman Corporation.

Bengzon, C.J., Padilla, Bautista, Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, and Regala JJ., concur.

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