

DATILES AND COMPANY, REPRE-SENTED BY LORETA DATILES AND LARRY DATILES, PETITIONER, VS. HONORABLE MELQUIADES S. SUCALDITO, PRESIDING JUDGE OF BRANCH I, COURT OF FIRST INSTANCE OF...

G.R. No. L-42380. June 22, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

The issue before the Court is whether or not an investigation of a formal protest over a lease grant, by a Regional Director of the Bureau of Fisheries and Aquatic Resources may be the subject of a petition for prohibition and/or injunction before the Regional Trial Court, in the light of the following antecedent facts:

Petitioner Datiles and Company has in its favor a fishpond lease agreement[1] whereby the Republic of the Philippines, thru the Secretary of Agriculture and Natural Resources, agreed to lease to the company one hundred seventy five hectares, ninety nine ares and fifty-nine centares (175.9959 has.) of public land located in Batu, Siay, Zamboanga del Sur, for fishpond purposes. Fishpond Lease Agreement (FLA) No. 1902 was executed on 16 June 1971, with an original period of ten (10) years, later extended to twenty five (25) years, or up to year 2002.[2]

About the middle of 1973, petitioner-lessee filed a complaint for "Injunction with writ of Possession with Preliminary and Prohibitory Injunction, with Damages" before the Court of First Instance (now Regional Trial Court) of Zamboanga del Sur, and docketed as Civil Case No. 1389, against herein private respondents Jesus Deypalubos and Daniel Cabelieza.[3] Said court action was alleged to have been resorted to after the vehement refusal of the respon-dents to obey the orders of the then Philippine Fisheries Commission and Bureau of Fisheries[4] (now Bureau of Fisheries and Aquatic Resources) to vacate that portion of the area covered by FLA No. 1902 which they (private respondents) were occupying without a fishpond permit and the knowledge and consent of petitioner.

To the accusation of their unlawful entry, private respondents set up the defense of good faith at the time of their entry and occupation of the land which they described as forested and uncultivated. They added that prior to the filing of their own respective fishpond lease applications over the disputed area (i.e., Deypalubos on the southern portion of about forty-nine (49) hectares and Cabelieza on the eastern part of about two (2) hectares) on 3 January 1973, they were assured by an officer from the Bureau that the areas were unoccupied and not subject of any pending leasehold agreement or application.[5]

Meanwhile, respondent Deypalubos submitted to the Bureau of Fisheries his formal protest against petitioner's existing fishpond permit over the 49 hectares, subject of Civil Case No. 1389.[6]

Later, or on 18 February 1974, the trial court, in Civil Case No. 1389 ordered the issuance of a writ of preliminary mandatory injunction against both respondents[7] resulting in the restoration of possession and occupancy of the disputed areas by the petitioner on 28 May 1974.[8]

Thereafter, or on 2 June 1974, the Barrio Council of Batu, Siay, Zamboanga del Sur prepared and submitted to the Bureau of Fisheries a resolution[9] which attests that the 49 hectare controverted fishpond area was never occupied by the Datiles family (herein petitioner company's predecessor) and that it was Mr. Deypalubos (herein private co-respondent) who cleared the same and constructed all the improvements therein. The resolution further requests that the original grant of 175.9959 hectares to Datiles and Company (herein petitioner) be reduced to fifty (50) hectares only in accordance with a certain presidential decree limiting the cultivation of a fishpond to about fifty (50) hectares, with the remaining area to be distributed to poor families.

No investigation of both the above-mentioned barrio council resolution and Deypalubos' formal protest over the forty-nine (49) hectares was held in view of a 29 October 1974 order of the Bureau Director to hold in abeyance any hearing on the matter until such time that Civil Case No. 1389 shall have been finally resolved.[10]

On 3 January 1975, another memorandum was issued by the Bureau Director addressed to herein public respondent Regional Director Guieb, directing "an immediate formal investigation of those issues involved in the foregoing resolution and the protest of Mr. Jesus Deypalubos xxx and not touched upon in Civil Case No. 1389." [11]

Accordingly, public respondent Guieb notified the parties of the scheduled hearing of the said protest and resolution.[12]

Praying to restrain the proposed investigation on the fishpond conflict, petitioner filed its 10 February 1975 petition for "Prohibition and/or injunction with Preliminary Injunction" (Special Civil Case No. 1426) before the CFI of Zamboanga del Sur against public respondent Guieb and impleading pro forma therein respondents Deypalubos and Cabelieza.[13] Following the limitation on the scope of issues to be investigated as directed in the 3 January 1975 Memorandum of the Bureau Director, petitioner alleged that Regional Director Guieb has no longer any authority to conduct the investigation, as the issues proposed to be investigated are the same issues raised in the then pending Civil Case No. 1389.

The presiding judge of the court a quo, Hon. Melquiades S. Sucaldito (now respondent), seeing that a possible irreparable injury could be caused the petitioner if the investigation in question were to proceed, issued the 31 March 1975 restraining order.[14]

During the trial of said Sp. Civil Case No. 1426, private respondents moved to dismiss the case and to dissolve the restraining order,[15] anchored on the grounds of (a) lack of the court's jurisdiction to try the case for failure on the part of petitioner to exhaust available administrative remedies, and (b) violation of Section 1 of Pres. Decree No. 605 which provides, in part, as follows:

"SECTION 1. No court of the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction or preliminary mandatory injunction in any case involving or growing out of the issuance, approval or disapproval, revocation or suspension of, or any action whatsoever by the proper administrative official or body on concessions, licenses, permits, patents, or public grants of any kind in connection with the disposition, exploitation, utilization, exploration and/or development of the natural resources of the Philippines."

Upholding respondents' contentions, the respondent judge dismissed Sp. Civil Case No. 1426 and lifted the 31 March 1975 restraining order on 4 August 1975. Pertinent portions of his decision read as follows:[16]

"x x x the element of said section which read:

'or any action whatsoever by the proper administrative officials or body on concessions, licenses, permits, patents or public grants of any kind.'

is so embrasive as to include the projected investigation sought to be prohibited. Clearly, therefore, Section 1 of Presidential Decree No. 605, as cited above, is squarely applicable to the restraining order sought to be dissolved. xxx

x x x in that Civil Case No. 1389, in grant-ing the said Writ of Preliminary Mandatory and Prohibitory Injunction, the Court acted solely to eject the respondents Deypalubos and Cabelleza from, and to prevent their return to the premises in question; to prevent them in widening their possession x x x. This Civil Case No. 1389 has not yet been tried on the merit. On the other hand, the investigation sought to be enjoined, and/or prohibited, involved not only mere posses-sion, but the right of the parties to lease the premises in question, based on law, rules and regulations issued by the Bureau of Fisheries and Aquatic Resources. This investigation, therefore, pertains to, and within the exclusive jurisdiction of the Bureau of Fisheries. In this investigation of the protest, it might be shown that while defendants may have no right in the beginning, they might have acquired later on, equitable right which may lead to the approval of their fishpond applications on the land in question. It may likewise show, upon the other hand, that petitioner has not complied with the conditions of its lease agreement: x x x

"Besides, the petitioner in this case has an available, adequate and speedy remedy that is to appeal this matter of investigation to the proper superior official - which in this case is the Secretary of Agriculture and Natural Resources. The plaintiff having failed to do this, the Court has no jurisdiction to entertain the present petition for prohibition. xxx"

Hence, this petition for review, which was previously denied for lack of merit by this Court in a 28 May 1976 Resolution.[17] Petitioner moved for the reconsideration of the said order of denial[18] and on 22 April 1977, the Court decided to give due course to the instant petition.[19]

Petitioner's recourse to this Court is actually based on Section 2, Rule 65 of the Rules of Court, seeking to pre-vent public respondent Guieb from investigating the subject fishpond conflict, on the ground that this threatened act constitutes excess in the exercise of his jurisdiction. On the other hand, while respondents do not contest that the nature of the contemplated action (investigation) can be a proper subject of a petition for prohibition, it is none-theless submitted that there being no prior exhaustion of administrative remedies on petitioner's part and in view of PD No. 605, the respondent court cannot properly take jurisdiction of the petition for prohibition.

We rule for the petitioner.

It is a well-settled rule that, for prohibition to lie against an executive officer, the petitioner must first exhaust administrative remedies. This doctrine rests upon the assumption that the administrative body, board or officer, if given the chance to correct its/his mistake or error, may amend its/his decision on a given matter.[20] It follows therefore that there has to be some sort of a deci-sion, order or act, more or less final in character, that is ripe for review and properly the subject of an appeal to a higher administrative body or officer, for the principle of exhaustion of administrative remedies to operate. In the present case, however, there is no administrative order or act as above described, that can be appealed from. The respondent Regional Director has not rendered any decision, or made any final finding of any sort, and is in fact just about to conduct an investigation which happens to be the very act sought to be prevented. Consequently, administra-tive remedies that must be exhausted, although available, cannot be resorted to. There being urgency in stopping public respondent Guieb's investigation but no plain, speedy and adequate remedy in the ordinary course of law, petitioner's recourse to the respondent court for relief by way of a petition for prohibition was proper.

We now look into PD No. 605. Its evident purpose is to prevent the substitution of judicial judgments for those of public administrative officials in disputes involving the disposition or utilization of natural resources of the

country. The decree seeks to leave to administrative agencies the authority to decide controversies involving licenses, permits, patents or public grants in connection with natural resources, obviously because of the expertise of such administrative officials in dealing with such problems.

The issuance of said decree (No. 605) does not, how-ever, mean that courts cannot exercise jurisdiction where questions of law are involved, as in the case at bar. Here, what was assailed before respondent judge is Regional Director Guieb's move to conduct an investigation on Deypalubos' formal protest, the petitioner's theory being that to investigate the matter is to go beyond what the Director of the Bureau of Fisheries had authorized in his 3 January 1975 Memorandum, which is "to cause an immediate formal investigation of those issues involved in the fore-going resolution and the protest x x x and not touched upon in Civil Case No. 1389." [21] (Emphasis supplied)

The situation, therefore, called for a determination of whether or not the proposed investigation was indeed an over-exercise of authority by respondent Regional Director as claimed by the petitioner: and if this was resolved in the negative, the investigation would have been allowed to proceed. The respondent court was called upon to look only into the propriety of the investigation regardless of the fact that the investigation could result in the issuance and/or revocation of fishpond lease permits of the contending parties.

As to the prohibition dictated by PD No. 605, the same pertains to the issuance by courts of injunctions or restraining orders against administrative acts on contro-versies which involve facts or exercise of discretion in technical cases, because to allow courts to judge these matters could disturb the smooth functioning of the administrative machinery. But on issues definitely outside of this dimension and involving questions of law, courts are not prevented by PD No. 605 from exercising their power to restrain or prohibit administrative acts.

Instead of remanding this case to respondent court for further proceedings, we will put a finis to it. At bottom line, the real legal issue here is whether public respondent Guieb should desist from investigating petitioner's fishpond lease No. 1902. It will be recalled that when respondent Guieb issued the notice of hearing of 24 February 1975 to the parties, the subjects of investigation, as indicated therein, were the 18 September 1973 Protest against FLA No. 1902 and the 2 June 1974 Barrio Council Resolution. The said Protest consists of Deypalubos' assertions that prior to his application for a fishpond permit for the area in question, he was assured of the absence of any improvements in the area he occupied, and that it was he who introduced all the substantial improvements therein until petitioner company began harrassing him. These issues were however raised and, in fact, already passed upon in the decision rendered in Civil Case No. 1389, which became final and executory on 26 October 1980. [22] Elaborating on these points, the court in said Civil Case No. 1389, in a 21-page decision, found the above allegations not credible and ordered, among others, the forfeiture in favor of petitioner of the improvements built and constructed by Deypalubos in the controverted area covered by FLA No. 1902. Said court findings are consistent with the results of the inspection by the former Philippine Fisheries Commission and Bureau of Fisheries conducted in 1973. [23]

The insistence still of respondent Regional Director Guieb to proceed with the investigation, knowing fully well that there remain no other issues in Deypalubos' protest that were not previously raised in Civil Case No. 1389 and before the same Bureau, leads one to conclude that he is acting in excess of his delegated authority to investigate. After these issues had been tried and investigated, adminis-tratively and judicially, the same issues can no longer be reopened by public respondent Guieb.

The Barrio Council Resolution intended to be included in the investigation by public respondent Guieb likewise contains the very same averments made in the protest, the only new matter presented being that petitioner should have been awarded fifty (50) hectares only in view of a presi-dential decree limiting administrative grants of

fishpond permits or leases to just this much. The provisions of the invoked decree have not however been set forth nor the decree number indicated. All that was said is that there is an existing decree to that effect, and nothing more. Such a broad statement does not justify a re-investigation of this fishpond conflict.

Justice and fairness dictate that long-resolved matters be finally closed and laid to rest.

WHEREFORE, the 4 August 1975 decision in Sp. Civil Case No. 1426 is REVERSED and public respondent Guieb is hereby ordered to REFRAIN and DESIST from investigating the respondent Deypalubos' protest of 18 September 1973 and the Barrio Council Resolution of 2 June 1974 of Batu-Siay, Zamboanga del Sur questioning Fishpond Lease Agreement No. 1902 in favor of petitioner.

SO ORDERED.

Paras, Sarmiento, and Regalado, JJ., concur.

Melencio-Herrera, J., (Chairman), no part, related to one of petitioners.

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- [1] Annex "A", Petition for Prohibition, p. 35, Rollo
 - [2] Annex "C", Manifestation dated 16 November 1978, p. 408, Rollo
 - [3] Annex "C", Petition for Prohibition, p. 43, Rollo
 - [4] Annexes "C", "D", "E", "F", Motion for Reconsideration, pp. 272-275, Rollo
 - [5] Annex "AA", Petition for Review, p. 64, Rollo
 - [6] Annex "6", Comments to Petitioner's Motion for Reconsideration, p. 332, Rollo
 - [7] Annex "D", Petition for Prohibition, p. 52, Rollo
 - [8] Annex "F", Petition for Prohibition, p. 56, Rollo
 - [9] Annex "G", Petition for Prohibition, p. 59, Rollo
 - [10] Annex "I", Petition for Prohibition, p. 61, Rollo
 - [11] Annex "J", Petition for Prohibition, p. 63, Rollo
 - [12] Annex "H", Petition for Prohibition, p. 60, Rollo
 - [13] Annex "A", Petition for Review, p. 28, Rollo
 - [14] Annex "B", Petition for Review, p. 68, Rollo
 - [15] Annexes "D" and "E", Petition for Review, pp. 80 and 83, Rollo
 - [16] Annex "H", Petition for Review, p. 95, Rollo
 - [17] P. 238, Rollo
 - [18] P. 248, Rollo
 - [19] P. 348, Rollo
 - [20] 42 Am. Jur. 579
 - [21] Annex "J", Petition for Prohibition, p. 63, Rollo

[22] Annex "A-1", Petitioner's Manifestation dated 15 June 1981, p. 437, Rollo

[23] Annexes "C", "E", Motion for Reconsideration, pp. 272 and 274, Rollo

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