

## VALERIANO C. BUENO, PETITIONER, VS. PEDRO B. PATANAO, ET AL., RESPONDENTS.

*G.R. No. L-13882. December 27, 1963*

Ponente: REGALA, J.

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### REGALA, J.:

Valeriano C. Bueno and Pedro B. Patanao are concessionaires of adjacent forest lands in the province of Agusan under licenses issued by the Bureau of Forestry.

On April 29, 1958, Pedro E. Patanao commenced Special Civil Case No. 48 with the Court of First Instance of Agusan, against Valeriano C. Bueno and one Juanito Merin, for injunction and damages. In his amended petition, Patanao alleged that on March 10, 1958 the respondents therein disturbed him in his possession of his timber concession by illegally entering the same and cutting and hauling logs therein; that when he went to the area to stop said respondents and their laborers, truckers and loggers from cutting and hauling logs "he was met with riot guns, pistols and other firearms"; and that defendants were able to cut no less than one million board feet of exportable logs worth not less than \$64,000.00 and would be able to cut and haul even a Bigger amount in the space of one month as they had allegedly concentrated all their logging machineries and equipment with the apparent intention of illegally denuding the forest area covered by his license. Patanao thus urged the court below to issue a writ of preliminary injunction so as to enjoin the respondents, their agents, laborers and lawyers, from entering the area and cutting and hauling logs therein pending trial and, after trial, to make the injunction final and permanent, and to condemn said respondents liable in an amount of not less than P175,000. 00 as actual and moral damages, attorney's fees and costs.

Finding the petition to be sufficient in form and substance, Judge Ortiz ordered the therein respondents to file answer within 10 days from notice and to appear before the court on April 30, 1958 at 9 o'clock a.m. to show cause why the preliminary injunction prayed for should not issue. On April 30, however, an order was issued by the same judge reading as follows:

"In view of the absence of the presiding Judge of this Court, the Municipal Judge of Butuan City is authorized to receive the evidence of the movant for the purpose of deciding whether the injunction should issue or not. Let the hearing of this case in the Municipal Court be set on May 5, 1958."

The petition for preliminary injunction was heard before Municipal Judge Ruiz on May 5 and 6, 1958, at which dates Bueno filed written oppositions thereto and his answer to the complaint.

In defense, Bueno interposed the following: (1) Patanao has no cause of action, his license over the area adjacent to Bueno's area having expired; (2) Patanao has not exhausted the administrative remedies in the settlement of their conflict regarding their common boundary, the same having been brought already to the attention of the Bureau of Forestry for decision; (3) The area claimed by Patanao and where Bueno is now operating is within said liueno's duly licensed concession; (4) Granting, without conceding, that Bueno had operated in the area of Patanao, said operation was pursuant to a contractual relation between them; and (5) It is Patanao who has

actually encroached upon the forest area of Bueno.

On May 9, 1958, after hearing, Judge Ruiz granted the issuance of a writ of preliminary injunction, and on the next day said writ was issued by the Clerk of Court.

Armed with the writ and a sketch map of the Bureau of Forestry delimiting Patanao's area, a deputy of the respondent Provincial Sheriff repaired to the concessions of the parties and then and there restrained, prohibited and enjoined Bueno and his men from entering and cutting or hauling logs or any other forest products from the area of Patanao.

Later, in view of Patanao's representations that some logs were cut by Ms laborers within his area before April 8, 1958, but same were left on the site and later on carted away by Bueno's men on or about May 10, 1958, an alias writ of preliminary injunction was issued on May 12, 1959 by the same Municipal Judge Ruiz, ordering Bueno to give and deliver to Patanao not less than 500 pieces of exportable lauan logs on deposit at the logpond at Batohon, Esperanza, Agusan. In compliance thereto, the respondent Sheriff caused the confiscation and delivery to the possession of Patanao of 252 round logs pointed to him by Patanao's men.

Bueno filed a motion for reconsideration of the Court orders dated May 9 and 12, 1958, and the corresponding writs. After oral argumentation by both parties, the judge of the Court of First Instance himself denied the motion, holding that in his absence, under Section 88 of the Judiciary Act, Municipal Judge Ruiz had jurisdiction to issue the preliminary injunction in question.

On June 2, 1958, Bueno instituted before Us this petition for certiorari and prohibition with preliminary injunction, claiming that the said orders of May 9 and 12, 1958 were issued far in excess of the jurisdiction of Judge Ruiz and with grave abuse of discretion; that it is Patanao who had encroached upon his forest concession; that all the respondents have been enforcing the orders without affording him ample opportunity to contest them; and that there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of Law.

On June 5, 1958, counsel for herein respondents filed a "Motion to dismiss petition and opposition to issuance of Preliminary Injunction". In a resolution dated June 10, 1958 this Court dismissed the petition.

Bueno, however, filed a motion for reconsideration and this Court reconsidered the said resolution, thereby giving due course to the petition.

On motion of petitioner Bueno, a writ of preliminary injunction was issued on June 20, 1958, upon a bond for the fixed sum of P10,000.00. Respondents filed their answer in due time.

It is contended in the first place that the orders of May 9 and 12, 1958 were both improvidently issued by Municipal Judge Ruiz of Butuan City, the authority granted to the said judge being merely "to receive the evidence of the movant for the purpose of deciding whether the injunction should issue or not."

Under Section 88 of the Judiciary Act of 1948, as amended, the Justice of the Peace of a capital or the Municipal Judge of a chartered city has like interlocutory jurisdiction as a Judge of a Court of First Instance to hear motions for the appointment of a receiver, for temporary injunctions, and all other orders of the Court which are not final in their character. Even conceding, without admitting, that the Municipal Judge in this case was given only a limited authority to receive evidence on the granting of the injunction, yet when the writ of injunction was issued by him, the Judge of the Court of First Instance was no longer in the province; therefore, his act may be regarded as in pursuance of the authority vested in him under the aforementioned Section 88 of the Judiciary Act of 1948, as amended.

Furthermore, the Judge of the Court of First Instance who issued the authority to the Municipal Judge under date

of April 30, 1958 to receive evidence only, in denying the motion for reconsideration filed by petitioner Bueno, sustained the power of the Municipal Judge to issue the writ in question.

The next point raised by Bueno is that Patanao has no cause of action as yet against him in view of the fact that the boundary controversy between them is still pending investigation by the Bureau of Forestry, and before one can resort to the court such administrative remedies as may be available should first be exhausted, citing the case of Villanueva, et al. vs. Ortiz, et al., 103 Phil., 875, decided on May 28 1958.

At first glance, petitioner's argument appears to be tenable. True, the common boundary of the parties was verified by the Bureau of Forestry way back in March 1955. It seems, however, that while petitioner Bueno had endeavored to respect the verification report, respondent Patanao had refused to conform thereto, so much so that the conflict was brought anew to the attention of the Director of Forestry who has formally taken a hand therein. On or about April 8, 1958, before Patanao instituted Civil Case No. 48 with the respondent court, he was officially requested to designate a representative to accompany Forestry officials in the verification of the common boundary line between him and petitioner (Exhibit 8, letter addressed to Patanao by Anastacio G. Sison, officer-in-charge, Esperanza Forest Station, Agusan, p. 8; Opposition to Urgent Motion to Dissolve Writ of Preliminary Injunction, dated, July 23, 1958.) That said boundary dispute is still pending in the Bureau of Forestry at the filing of this petition is shown by the letter of the District Forester of Agusan, now in the record as Annex A-Opposition. The record also discloses that Patanao's application for renewal and consolidation of his timber licenses for 1957-58 had not yet been approved by the Secretary of Agriculture and Natural Resources. Its renewal depends upon the consideration of the Director of Forestry. The granting of timber licenses, their renewal or cancellation, and the determination of conflicting claims or boundary lines involving forest zones, such as those presently occupied by the parties hereto, are all vested by law primarily upon the Director of Forestry and ultimately upon his Department head.

Incidentally intertwined, however, with the issue of boundary in this case are the questions of public order and the determination of the contractual relations of the parties which only courts of justice have jurisdiction.

Paragraph 3 of the amended petition of Patanao recites that when he attempted to stop petitioner Bueno and his laborers from cutting and hauling logs, "he was met with riot guns, pistols and other firearms." This averment finds substantiation in the resolution of respondent Judge Ruiz granting the issuance of a writ of preliminary injunction, as prayed for by Patanao, the pertinent part of which reads as follows:

"That respondents committed illegal acts against the person and rights of the petitioner and by the use of arms, riot guns, pistols; and other firearms, forced the petitioner to desist and stop his lawful logging operation in the area in question, thus disturbing his peaceful and continuous possession of the above-described forest area, so that on May 2, 1958, the Provincial Fiscal of Agusan filed with this Court Criminal Case No. 1641, against Custodio Martinez, one of the trusted bodyguards of the respondents, for GRAVE COERCION, against the very person of the petitioner (Exhibit K) and this offense is only one of the illegal acts committed by the respondents' men on April 8, 1958, which acts are highly arbitrary and oppressive to the rights of the petitioner. \* \* \*."

In the case of Bohayang vs. Maceren, et al., 96 Phil., 390; 53 Off. Gaz. July 15, 1957, p. 4105, which involved public land claimed by the parties thereto as within the area covered by their respective homestead applications, this Court directed the trial court therein to go ahead with the hearing of the possessory action instituted by one of the applicants in spite of the pendency of a boundary dispute between the same parties in the Bureau of Lands, thus—

"If merely a matter of the respondent court's control of its calendar, this Court would not interfere with it. But the order complained of suspends the hearing of the case and makes the resumption thereof dependent upon the action

to be taken by the Director of Lands on the conflict of claims on the land between the; petitioner and the respondents. Such postponement may be for a long stretch of time as it is made to depend upon the action to be taken by the Director of Lands. Such action would settle or determine who under the Public Land Act is entitled to the land as and for homestead. On the other hand, an action for recovery of possession is an urgent matter which must be decided promptly to forestall breaches of peace, bodily injury to person, mayhem, or perhaps loss of life. It is the duty of the Court to act swiftly and expeditiously in cases of that nature."

Considerations of public order must transcend the mere administrative issue of conflict of "boundaries, if courts must continue to be looked upon as the supreme arbiter of social peace. Indeed, while the question of boundary is peculiarly within the province of the executive branch in those cases involving the public domain, only courts are empowered and have the weapons to compel the parties, temporarily or perpetually, to maintain peace. One of these judicial weapons is the provisional remedy of injunction which, considering that its sole object is to preserve the status quo until the merits of a case can be heard, and that the status quo is the last actual peaceable uncontested status which preceded the pending controversy (*Rodulfa vs. Alfonso*, 75, Phil. 225), must be executed promptly and expeditiously to avert trouble or its recurrence.

In an earlier case (*Pitargue vs. Sorilla*, 92 Phil., 5; 48 Off. Gaz. p. 3849), this Court lengthily discussed the propriety of a possessory action, like forcible entry, even as the rival claimants' respective rights to the lands applied for by them are still pending investigation in the Bureau of Lands, and it was there concluded that the determination of rights to public lands is different from the determination of who has the actual physical possession or occupation with a view to protecting the same and preventing disorder and breaches of the peace:

"\* \* \* A judgment of the court ordering restitution of the possession of a parcel of land to the actual occupant, who has been deprived thereof by another through the use of force or in any other illegal manner, can never be 'prejudicial interference' with the disposition or alienation of public lands. On the other hand, if courts were deprived of jurisdiction of cases involving conflicts of possession, the threat of judicial action against breaches of the peace committed on public lands would be eliminated, and a state of lawlessness would probably be produced between applicants, occupants or squatters, where force or might, not right or justice, would rule."

Also in the same case, this Court held that the right of a bona fide occupant of public land may be protected by the possessory action of forcible entry or by any other suitable remedy that our rules provide. Injunction, whether temporary or perpetual, is a suitable remedy provided by our Rules of Court. Indeed, the petition for injunction filed by Patanao in the lower court is practically a possessory action, for it has no other purpose than to restore Patanao in the area which he claims to be in his actual physical possession.

Another phase of the whole controversy which favors the continuation, trial and disposition of the petition for injunction in the court of origin concerns the contractual relations of the parties. Paragraph 4 of the amended petition of Patanao seeks the payment of \$64,000 representing the value of one million board feet of exportable logs allegedly cut and hauled by Bueno and his man from the area in dispute. In his supplemental opposition to Patanao's motion for preliminary injunction, Bueno asserted:

"In the remote possibility that plaintiff can maintain that defendants really operated in the area of plaintiff (which, certainly has not during the date or dates cited in plaintiff's petition) the same was done by defendants pursuant to a contractual relation in writing between plaintiff and defendant Valeriano C. Bueno, executed at Butuan City on May 1, 1955, true copies of documents being attached hereto, \* \* \*.

"It will be noted from the attached documents that plaintiff had entered into a royalty arrangements with defendant Valeriano C. Bueno for the latter to operate in plaintiff's area at the agreed royalty of P3.50 per cubic meter, 'as long as the area of the Lessee (plaintiff) shall contain commercial timber' and that plaintiff had created 'a continuing first mortgage on all the total timber production of the Lessee (plaintiff)' in favor of

defendant Valeriano C. Bueno.

"The agreed consideration of P3.50 per cubic meter of timber taken from plaintiff's area cannot be interjected other than as a royalty because the same amount of P3.50 was to be paid irrespective of 'any grade class of timber cut.'

"Pursuant to the above-mentioned contractual arrangement, plaintiff obtained from defendant Bueno a total of P192,205.50 from May 1, 1955 to date, against which were charged the value of timber cut by defendants from plaintiff's area at P3.50 per cubic meter, irrespective of 'any grade, class of timber cut,' to date, but leaving still a balance of P8,921.02 to be offset by plaintiff with his timber and in his alleged area."

and in his (Bueno's) answer to the injunction suit, he alleged the following defenses:

"15. That granting, without conceding, that defendants have cut logs and hauled them from the alleged concession area of plaintiff, the same was in pursuance of a certain Agreement and working arrangement, both executed on May 1, 1955, between plaintiff and defendant Valeriano C. Bueno for the exploitation and operation of the alleged concession area of plaintiff; that plaintiff's agreement with defendant Valeriano C. Bueno was exclusive and in full force and effect 'as long as the area of the plaintiff shall contain commercial timber' and that plaintiff had created 'a continuing first mortgage on all the total timber production' out of his area in favor of defendant Valeriano C. Bueno;

"16. That pursuant to the Agreement and working arrangement plaintiff entered into with defendant Valeriano C. Bueno mentioned in the preceding paragraph 15, plaintiff still has an outstanding account with defendant Bueno in the amount of P18,921.02, to date, the said amount to be paid off in the form of logs cut and hauled out of the plaintiff's alleged area by defendants pursuant to said Agreement and working arrangement but which plaintiff maliciously and unreasonably refused to pay, either in kind or in cash, despite repeated demands;

"17. That true copies of the documents mentioned in the preceding paragraphs 15 and 16 are made parts and parcels of the herein answer and attached hereto to Annexes 1 and 2;"

It appears that during the hearing of the motion for preliminary injunction before respondent Judge Ruiz, respondent Patanao stated that the agreement executed on May 1, 1955 were no longer in force because of the failure of Bueno to comply with his obligations in favor of Patanao. In his answer to the instant petition for certiorari, Patanao averred in paragraph 3 thereof that the contracts in question pertained to a lease of equipment by Bueno in favor of Patanao and did not give said Bueno the right to operate in the area of Patanao.

In the case of *Espinosa, et al vs. Makalintal*, 79 Phil. 134, We denied the petition to declare the lower court therein to be without jurisdiction over the subject matter of the main suit—a fishpond leased by the government to the plaintiff—on the ground that the case was the offshoot of disagreements between the parties in connection with their civil or contractual relations and not with the determination of conflicting claims regarding the disposition of public lands for fishpond purposes. This Court said in that case:

"The powers granted to the Secretary of Agriculture and Commerce by the pertinent provisions of law invoked by petitioners are all of executive and administrative nature, such as granting of licenses, permits, leases and contracts or approving, rejecting, reinstating, or canceling applications, or deciding conflicting applications. The controversies between the parties, as raised in the pleadings in case No. 200 of the Court of First Instance of Iloilo appear to have arisen upon disagreements in civil or contractual relations between the litigants to which the legal provisions invoked by petitioners are not and cannot be applicable. It should be far-fetched to recognize in the Secretary of Agriculture and Commerce the power of determining whether or not, as alleged by Patanao, he has been deprived by defendants of the possession of the fishpond in question and of the legal effects of such alleged deprivation, or upon the nature of the two contracts of mortgage in the form of sale with

right to repurchase between Sason and Paranpan, alleged by defendants, or whether Paranpan has charged Sason with usurious interests. These are questions judicial in nature and only courts of justice can decide them."

Similarly, whether or not the agreements, dated May 1, 1955, are still in force between the parties, and whether they involve the cutting of timber in the forest area of Patanao by Bueno on a royalty basis, as alleged by Bueno, or a mere lease by Patanao of Bueno's logging machinery, as maintained by Patanao, are essentially judicial questions which the respondent Court of First Instance alone can and must decide if complete and effective relief is to be obtained.

This case should be distinguished from the case of Villanueva vs. Ortiz, *supra*, cited by petitioners. While that case involved boundary disputes between two concessionaires of adjacent forest lands (one of whom, coincidentally, is herein respondent Patanao), there was no showing of violence or riotous acts that would necessitate the immediate interference of the courts therein. Nor was there alleged any contractual relations between the parties.

In view of the foregoing considerations, the instant petition is hereby dismissed and the writ of preliminary injunction heretofore issued dissolved, with costs against petitioner.

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

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