

JOSE S. RICO, PETITIONER, VS. HON. COURT OF APPEALS, HON. JESUS P. MORFE, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA AND ALCANTARA & SONS, INC., RESPONDENTS.

G.R. No. L-25757. December 28, 1970

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The present controversy is the direct offshoot of several orders of the Court of First Instance of Manila (Br. XIII, Hon. Jesus P. Morfe, presiding) in its Civil Case No. 59000, as virtually affirmed by the Court of Appeals in its CA-G. R. No. 36722-R when it denied the petition for a writ of certiorari to annul the questioned orders of the court a quo, which orders would, in the meantime, prevent petitioner Jose S. Rico from conducting logging operations within a 529-ha. tract of forest land located in Kidapawan, Cotabato and would also have the effect of temporarily setting aside the decision of petitioning public officials adjusting the common boundary of the adjoining license areas of private petitioner Rico and private respondent Alcantara & Sons, Inc. (ALSONS for short), the contending timberland concessionaires. Owing to the fact that G. R. No L-25757 and G. R. No. L-25780 - although separately brought before this Court by different parties - treat of the same subject-matter, raise identical issues and pursue similar arguments, petitioning public officials in G.R. No. L-25780, by resolution of this Court adopted in said case on July 13 1964, were allowed to adopt the brief and argument filed by private petitioner Jose S. Rico in G.R. No. L-25757, as their own "except as to the issue on the nullity of the decision of the Court of Appeals in CA-G.R. No. 36722-R." For the same reason, this joint decision is rendered in both cases.

On November 13, 1964 ALSONS, holder of ordinary timber license No. 1412 -'63 for a tract of about 44,998 hectares of forest land and Kidapawan, Cotabato, filed before the Court of First Instance of Manila a petition for certiorari, prohibition and mandamus with preliminary injunction (Civil Case No. 59000) against Salvador Mariño, Jose Y. Feliciano, Apolonio Rivera and Jose S. Rico as party respondents, the first three in their official capacities as the then Executive Secretary, Secretary of Agriculture and Natural Resources and Acting Director of Forestry, respectively, and the last as the forest concessionaire directly benefited by the assailed decision of the aforementioned public officials.

Primarily claiming that the decision of the Acting Director of Forestry as affirmed by the Secretary of Agriculture and Natural Resources and by the Executive Secretary - establishing a new common boundary line between the adjacent forest concessions of ALSONS and Rico was rendered with grave abuse of discretion amounting to lack of jurisdiction because it was arrived at without prior investigation as required by section 6, of Forestry Administrative Order No. 6-2, series of 1951,[1] ALSONS sought in the court below (a) to set aside the decision of the Director of Forestry as affirmed by the Secretary of Agriculture and Natural Resources and by the Executive Secretary; (b) to restrain by writ of preliminary injunction the enforcement of said decision and to prohibit Rico from entering into and occupying the 529-ha. tract of forest land in question for the purpose of conducting logging operations therein during the pendency of the case; and (c) to allow ALSONS to exercise and enjoy its rights as the licensee of the area in dispute by maintaining the common boundary line reflected and

specified in Rico's ordinary timber license (No. 194-'62) as the true and permanent common boundary between the adjacent concessions.

On November 14, 1964, a day after ALSON S petition was filed, respondent Judge issued an order - actually the first of his seven (7) different orders now questioned before this Court - temporarily restraining respondent public officials in said case from enforcing and executing assailed decision, and at the same time setting the hearing of ALSONS' application for a writ of preliminary injunction on November 28 following. By agreement of the parties the November 28 hearing was postponed to December 12, 1964 to enable them to prepare a consolidated sketch of the timberlands concerned and thus facilitate joint consideration of the matter. On December 12 respondent judge again issued an order emphasizing that:

"x x x pending resolution of the application for preliminary injunction, the status quo be maintained in the sense that both parties, through their representatives, may be allowed to inspect from time to time the area in conflict, without performing logging operations over the area in controversy.

Upon agreement of the parties, the Court clarifies, for the information of the government offices concerned, that the temporary restraining order issued in the instant case does not prohibit the renewal or modification of the licenses already at present enjoyed by either or both of the parties, provided that future renewals or modifications of the licenses shall not affect the area in controversy."

After several protracted hearings designed to give the main contending parties sufficient time to finalize a partial stipulation of facts with respect to ALSONS' application for preliminary injunction, respondent Judge issued the writ asked for on April 5, 1964, restraining the respondent government officials from enforcing and executing the decision of the Director of Forestry as affirmed by the Secretary of Agriculture and Natural Resources; and (b) restraining private respondent (now private petitioner) Rico, his agents or representatives, from conducting logging operations within the disputed area until further orders of said court. Rico and the government officials concerned jointly moved for reconsideration of the order granting the writ of preliminary injunction, but the motion was denied on June 25, 1965. A second motion for reconsideration met the same fate on August 16, 1965. Rico then moved for the lifting or dissolution of the preliminary injunction, reasoning that its continued maintenance may compel him to stop logging operations. This was also denied on September 28, 1965, the court pointing out that the disputed 529-hectare area could hardly affect Rico's over-all operations since the remaining total operable area covered by his timber license was 4,279 hectares.

On November 16, 1965 ALSONS filed a "motion for ground verification" of the areas involved in the controversy, specifically the areas originally granted Rico under O.T. No. 74-'61 and the additional area granted him as incorporated in O.T. No. 194-'62, to ascertain or verify the accuracy of the descriptions stated in said licenses. But before the trial court could resolve the aforementioned motion Rico and the government officials enjoined by the court below instituted in the Court of Appeals on November 22, 1965 a petition for certiorari, prohibition and mandamus with writ of preliminary injunction. The grounds relied upon in support of their petition, as stated therein, are as follows:

"5. The aforementioned orders of respondent Judge in Civil Case No. 59000 were promulgated by him without or in excess of his jurisdiction and/or with grave abuse of discretion, hence unlawful and void ab initio from which there is no plain, speedy and adequate remedy in the ordinary course of law; causing great and irreparable damages to respondent Jose S. Rico (petitioner herein). The absence of jurisdiction and/or presence of grave abuse of discretion on the part of respondent Judge could be gleaned from his refusal to dismiss the petition and giving due course to the same and issuing a writ of preliminary injunction (in spite of repeated moves on the part of respondents in Civil Case No. 59000 showing said Judge has no jurisdiction and that the petition therein does not state a cause of action) when there is no legal justification for said Judge to entertain Civil Case No. 59000 because -

a - what is involved there-in is the issuance of timber licenses and the determination of the boundaries of the areas covered by such timber licenses, functions that are purely administrative and highly discretionary in character, hence beyond the pale of judicial review;

b - the determination made by the administrative authorities respecting the boundary of timber concessions they have granted in-volving as it does questions of fact, is final in nature, unappealable to the courts; and

c. - the petition in said case obviously does not state a cause of action because the acts of the administrative officials in issuing the timber licenses of C. Alcantara & Sons, Inc. (hereinafter referred to as RICO for brevity) and, in subsequently defining the boundary between the two concessions were official actions performed in accordance with law and sound discretion so that therefore certiorari, prohibition and mandamus as prayed for in that case will not lie, there being no lack of jurisdiction nor abuse of discretion in the performance of those administrative actions."

On November 24, 1965 the Court of Appeals issued a resolution granting the writ of preliminary injunction prayed for in the petition. Two days thereafter, or on November 26, 1965, the writ itself was issued; the pertinent portion of which reads:

"AND, it is hereby ordered that you, respondent Judge, refrain from proceeding with Civil Case No. 59000 of the Court of First Instance of Manila, entitled C. Alcantara & Sons, Inc. vs. Jose S. Rico et al. and from enforcing your orders dated November 14, 1964, April 5, 1965, June 25, 1965 and August 16, 1965, in said civil case, x x x UNTIL FURTHER ORDERS FROM THIS COURT."

On the strength of this writ Rico filed in the trial court an opposition to ALSONS motion for ground verification and the trial court, on December 17, 1965, issued an order understandably holding in abeyance action on said motion and opposition during the affectivity of the writ of preliminary injunction issued by the Court of Appeals.

On January 26, 1966 the Court of Appeals rendered judgment in CA-G. R. No. 36722-R, the dispositive portion of which reads:

"WHEREFORE, the petition for a writ of certiorari is hereby denied for lack of merit, and the writ of preliminary injunction issued by this Court on November 26, 1965, is ordered lifted and dissolved, with costs against petitioner Jose S. Rico."

Three days thereafter, or on January 29, 1966, upon learning that Rico was about to export the logs that he had cut and removed from the disputed area during the pendency of the case in the Court of Appeals, ALSONS filed in the Court of First Instance of Manila an "urgent ex-parte motion for the issuance of an order to compel the Director of Forestry to recall his telegram allowing the exportation of logs cut from the disputed forestry area and to send another directive stopping the exportation of said logs." It later turned out that upon the issuance by the Court of Appeals of the writ of preliminary injunction on November 26, 1965 Rico immediately commenced logging operations in the disputed area upon the theory that the writ of preliminary injunction issued by the appellate court operated to prohibit the enforcement of the writ issued by the trial court. Said theory appears to have been shared by the Director of Forestry as evident from the text of the telegram he sent to the Forestry Regional Director in Davao City on January 27, 1966 upon being notified of the Court of Appeals' decision. Said telegram reads:

"FORESTRY REGIONALDIRECTOR

DISTRICT FORESTER

DAVAO CITY

Court of Appeals lifted its injunction making Court of First Instance Injunction operative so that you immediately stop Rico from further cutting inside the conflicted area with Alsons Period Logs already cut therefrom be allowed exportation provided same are duly paid of all forest and government charges properly accounted for record and consideration in disposing Civil Case."

On January 31, 1966 the trial court - reasoning that the Court of Appeals' injunction merely restrained it from enforcing its orders but did not suspend, much less lift, the trial court's writ of preliminary injunction - ordered the Director of Forestry to recall his telegram of January 27, 1966 and in its stead send another telegram to the Regional Director to prevent Rico from exporting the logs cut from the disputed area and instead take possession and custody of the same. The next day the Director of Forestry moved to reconsider this order and at the same time, together with the other petitioners, filed a motion for clarification with the Court of Appeals, which ALSONS opposed. But before the motion for clarification could be resolved, Rico submitted to the Court of Appeals, on February 4, 1966 an "ex-parte motion for authority to ship cut logs for export and for issuance of restraining order," advancing the following reasons in support thereof.

"5. That sometime in November 1965 and after this Honorable Court has issued its Resolution on November 26, petitioner Jose S. Rico cut logs in the appropriate quantity of 3,000 to 3,500 cu. m. (this representing corrected estimate quantity submitted in previous pleading) which has an estimated market gross value of P250,000.00 to P300,000.00 and that the said logs are now ready for shipment and for exportation and which is covered by firm commitments with foreign buyers; that out of this gross market value of the said cut logs, there is reasonable and ordinary expectation of realized net profit of from P50,000.00 to P70,000.00;

6. That under the aforesaid shipment commitment with the shipping company for the carriage of these cut logs, petitioner Jose S. Rico is subject to a liability for demurrage of \$800.00 (U.S.) per day and which constitutes a continuing liability of said petitioner in favor of the shipping company arising from delay; that under the said shipping commitment, petitioner Jose S. Rico will also incur other and additional liability for dead freight in the event that shipment cannot and will not be effected;

7. That government revenue in the form of forest charges and other fees from and out of this estimated quantity of cut logs should shipment be accomplished is approximately P17,000.00 to P20,000.00 exclusive of income taxes; that aside from this probable loss of government revenue, the cut logs, if not shipped, will rot and suffer other damages affecting adversely its market value;

On the same day the Court of Appeals issued a resolution granting Rico's motion for authority to export the already cut logs upon filing of a P200,000.00 bond. A date of hearing was set to entertain objections, if any, to the formal approval of the bond filed.

On February 8, 1966 ALSONS filed with the trial court a motion to declare Rico in contempt for his alleged disobedience to that court's injunction to refrain from conducting logging operations in the disputed area. The next day ALSONS formally informed the Court of Appeals that Rico had already exported logs aboard the M/S ENOURA MARU although the bond required of him had not yet been approved; and in a separate motion ALSONS prayed for a separate order directing the Secretary of Agriculture and Natural Resources to cancel Rico's O.T. No. 4-44-63069 for violating the administrative injunction contained therein which cautioned the licensee (Rico) not to operate "within the area in conflict with C. Alcantara & Sons, Inc. until the final disposition of said case and that failure to comply herewith shall be sufficient cause for the cancellation or non-renewal of this license." On the same date, February 9, 1966, the Court of Appeals promulgated a resolution denying both the motion for clarification and the motion for authority to export the logs which had been provisionally granted on February 4, 1966. Rico's urgent motion for reconsideration was subsequently denied on February 22, 1966.

Meanwhile, respondent Judge issued an order on February 11, 1966 (a) citing Rico to appear before the trial court

on February 28, 1966 to show cause and produce evidence why he should not be punished for con-tempt; (b) ordering his arrest and detention unless he filed a bond of P600.00 to assure his appearance in the hearing for contempt; and (c) ordering him to return within 7 days the 925 lauan logs he had shipped to Japan or in lieu thereof to deposit the proceeds of the sale thereof with the court. On February 18 and 24, 1966 ALSONS separately moved to declare counsel of the Director of Forestry and the Director of Forestry himself in contempt; the former for his alleged unwarranted partiality towards Rico, which movant claimed had morally helped Rico succeed in shipping the illegally cut logs, and the latter for his failure to take possession of the logs in question pursuant to the January 31, 1966 order of the trial court.

At the hearing on February 28 of ALSONS' motions to declare the above-mentioned parties in contempt, the trial court deemed it proper to suspend consideration of the same until its receipt of a written report from the commission it created to make an inventory of the number of trees felled in the disputed area. Thereafter the trial court did not have the chance anymore to proceed with the case below because petitioner Jose S. Rico, in a twin move on March 2, 1966, submitted to the trial court his explanation with respect to the shipment of logs and at the same time instituted G. R. No. L-25757 before this Court. Less than a week later, petitioning public officials commenced a similar suit of their own on March 6, 1966, docketed as G. R. No. L-25780. Although both petitions are peculiarly styled as an "appeal by certiorari and/or petition for certiorari and prohibition with writ of preliminary injunction," thus prompting respondents to express doubt as to their regularity, we find it unnecessary to discuss extensively the procedural point raised inasmuch as whether we deal with the proceeding before us as one for review on certiorari of the decision of the Court of Appeals or as an original petition for certiorari and prohibition against the orders of the trial court the result would be the same: we have to rule on the propriety of the assailed orders and on the jurisdiction of respondent Judge to issue them.

Both petitions contain similar prayers for relief: (a) that a writ of preliminary injunction be issued restraining respondent Judge and respondent Court of Appeals "from continuing with any of the abovementioned incidents relative to the case at bar; and (b) that, after hearing, the writ of preliminary injunction sought be made permanent and the orders of respondent Judge dated November 14, 1964 (issuing the temporary restraining order); April 5, 1965 (issuing the writ of preliminary injunction); June 25, 1965 (denying the motion for reconsideration are the issuance of the writ of preliminary injunction); August 16, 1965 (denying the second motion for reconsideration); September 28, 1965 (denying the motion to lift or dissolve the writ of preliminary injunction); January 31, 1966 (requiring the Director of Forestry to recall his telegram allowing exportation of the logs already cut from the disputed area); and February 24, 1966 (setting the date of hearing re the contempt charge against counsel of the Director of Forestry and re ALSONS' motion for the detention of Rico) be set aside and declared null and void." With respect to the case filed earlier, G. R. No. L-25757, we issued on March 3, 1966 a temporary restraining order effective up to the 9th of that month to stop: "(1) the Court of Appeals from executing or enforcing the decision dated January 26, 1966 in CA-G. R. No. 36722-R (Acting Executive Secretary, et al. vs. Hon Jesus P. Morfe, etc., et al.); (2) respondent Judge Jesus P. Morfe from further proceeding, and from enforcing any and all orders as well as the writ of preliminary injunction issued on April 5, 1965, in Civil Case No. 59000 (C. Alcantara & Sons, Inc. vs. Jose S. Rico, et al.) of the Court of First Instance of Manila, Branch XIII; and (3) respondent C. Alcantara & Sons, Inc. and other respondents, their agents, representatives, attorneys and/or other persons or person acting upon the orders of respondent Judge of the Court of First Instance of Manila from enforcing said writ of preliminary injunction dated April 5, 1965, as well as any other orders in said Civil Case No. 59000; provided the herein petitioner makes no other exportation of logs, subject matter of Civil Case No. 59000 of the Court of First Instance of Manila, until further notice." The restraining order was of course effective also with respect to the other case, (G. R. No. L-25780) although it was filed later, since the same acts and orders are involved in both cases.

On March 8, 1966, the date set for the hearing of the application for a writ of preliminary injunction, this Court resolved "x x x to ratify the temporary restraining order hereinbefore issued and convert it into a writ of preliminary injunction, with the addition that petitioner (Rico) may export logs already cut upon the filing of a bond of one hundred thousand pesos (P100,000.00); provided, however, that in the meantime, petitioner shall refrain from cutting logs in the place, until further orders from this Court." On March 16, 1966 ALSONS moved to reconsider that portion of the resolution which authorized Rico to export the logs he had cut from the disputed area upon the filing of a bond. On April 20, 1966 this Court denied the motion for reconsideration.

The primary 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. 59000 and in issuing the writ of preliminary injunction therein. This issue would be better understood in the light of the events that transpired prior to the institution of the petition below.

On June 6, 1960 Rico was awarded a forest concession in Kidapawan, Cotabato, with an approximate area of about 4,270 hectares. This concession was initially covered by Ordinary Timber License No. 74-61. A subsequent metric check of the area awarded subsequently showed that only 2,625 hectares constituted the forested portion; hence on November 8 of the same year Rico applied for an additional area of about 500 hectares. Since under existing administrative regulations immediate grant of the additional area applied for was not feasible because at the time of the application Rico's original license was barely ten days old, it was not until August 23, 1961, when his license was renewed under O.T. No. 194-'62, that the technical description of the original area was amended in order to include an adjacent vacant area (of about 710 hectares) to the north and northeast of the area previously granted. On January 3, 1962 O.T. No. 194-'62 was further amended so as to incorporate an additional area, this time located south.

Meanwhile, as early as March 14, 1961 O.T. No. 1412-'63 (new) was issued in favor of ALSONS, covering an area of 44,998 hectares. According to the technical description of said license area, it had a common corner with Rico's O.T. No. 194-'62 issued on August 23, 1961. The ensuing conflict as to the exact location of the common corner from which a boundary line between the adjacent concessions may be established was the principal cause of the instant controversy.

Petitioner Rico's version of the events leading to the boundary controversy culminating in the filing of the case below is as follows:

"On August 23, 1961, Rico's License O.T. License No. 74-'61 was renewed under O.T. No. 194-'62, but the technical description of the area covered by the first license was amended in the latter in order to include the additional 529 hectares applied for and approved. x x x

Prior thereto, Alsons had asked for a ground verification of the technical description of its license. Said verification was undertaken by Forester Artemio Genio, who used timber inventory Map No. 569/4, x x x According to Genio, FZ Corner 135, mentioned in the license of Alsons and Rico, corresponds to a Narring tree 70 centimeters in diameter with chiselled mark L.C. 569/4. This Narring tree was mentioned for the first time by Forester Genio in his report dated July 26, 1961, and is a natural monument pursuant to the timber inventory map used by him. On the other hand, Forester Bacena, who used the compilation map of L.C. Project 42 A-3, made no reference to any existing natural monument corresponding to FZ Corner 135 x x x. Genio's findings which did not dovetail with that of Bacena had the effect of creating a buffer area of some 529 hectares, which is the one in dispute.

With a view to resolving the same, the Director of Forestry designated Scaler Romulo R. Valerio to conduct an 'on-the-spot' investigation in the presence of the representatives of Alsons and Rico. After making a ground verification, Scaler Valerio established a line and laid down a common boundary of the two adjacent

concessions. According to this report dated October 15, 1961, the representatives of both parties, who were then present, had agreed on the line thus established and on the corner laid out on the ground, as well as on making it the basis of the re-amendment of the technical description of the adjacent areas.

However, in a letter to the Director of Forestry dated November 21, 1961, Alsons rejected the common boundary thus agreed upon.

Despite Alsons' aforementioned letter, the technical description of Rico's License O.T. No. 194-'62 was altered on January 3, 1962, in accordance with Valerio's report to conform with said common boundary line. However, Alsons' O.T. License No. 1412-'63 was not amended in accordance therewith.

When Rico discovered that the technical description of his license had thus been altered, on July 19, 1962, he filed with the Director of Forestry a protest against such alteration. On October 9, 1962, Alsons, in turn, complained to said officer against an alleged encroachment on his (Alsons') concession by Rico. Hence, the Director of Forestry instructed Forester Juan to make a thorough study of the surveys and investigations conducted by several foresters. Later Forester Juan submitted a memorandum on the result of said study. On the basis thereof, the Director of Forestry rendered a decision, dated October 18, 1962, declaring that the true boundary line between Alsons and Rico is that indicated by the bearing and distances given in the technical description of the licenses of Alsons and Rico x x x

The foregoing decision, in effect, sustained the ground location of FZ Corner 135 made by Foresters Bacena and Bandala in the sketch map attached to said decision, as against the ground location made by Forester Genio." (Petitioner Rico's brief, pp. 8-17)

Respondent ALSONS' presentation of the same events varies from that of Rico and alleges several items of note which are entirely absent in Rico's version. Thus ALSONS stated:

"The boundary controversy between ALSONS and Rico first occurred in 1961. It was brought about by their disagreement as to the true location of FZ Corner 135. Scaler Valerio, as directed, conducted a ground survey of the controverted boundary in the presence of the duly authorized representatives of ALSONS and Rico. A proposed common boundary line for the conflicting concessions was established and laid on the ground by Valerio together with the duly authorized representatives of the parties who agreed to adopt and make said line as the common boundary of the conflicting concession. Valerio recommended the approval of that agreement. His recommendation was approved, not only by the Bureau of Forestry, but also by the Department of Agriculture and Natural Resources.

Implementation of Valerio's recommendation was made in Rico's O.T. No. 194-'62, which was amended on January 3, 1962, whereby not only was his area increased from 3,335 to 4,008 hectares, or an addition of 673 hectares, but that the common boundary line for the conflicting concessions recommended by Valerio was clearly reflected and indicated therein. Rico accepted his O.T. No. 194-'62, as amended, and peace settled between him and ALSONS. All went well until after the lapse of more than six months. On July 19, 1962, Rico, in a letter to the Director of Forestry, sought a resurrection of the controversy by asking a re-amendment of his area. He did not even furnish ALSONS with a copy of that letter.

Because Rico went beyond the common boundary established by Valerio, ALSONS in a letter dated October 8, 1962, to the Bureau of Forestry presented a formal protest against Rico's encroachment. Without giving ALSONS a chance to be heard on its protest, the Bureau on October 18, 1962, or only ten (10) days after the date of ALSONS' protest, rendered a decision, x x x which if given effect will do away with the common boundary line established and laid on the ground by Valerio and deprive ALSONS of a 529-hectare portion of his licensed area.

To repeat, the original boundary controversy was already settled by the Valerio ground survey. Had Rico not asked for the further amendment of his O.T. No. 194-'62 on July 19, 1962, the present controversy would not

have come to life. The original boundary controversy therefore should not be confused with the present controversy. While it is true that an investigation of the boundary conflict between ALSONS and Rico was conducted by Scaler Valerio, where the parties were given the opportunity to be heard, that investigation was about the original con-troversy which has settled and decided by the approval and implementation of the investigator's recommendation. Of the present controversy, which was brought about by Rico's act to resurrect the original controversy that was settled by Valerio's investigation, no investigation where the parties were given the opportunity to be heard was made.

It is precisely because the Bureau's decision of October 18, 1962, failed to take into consideration the fact that Valerio already made a ground survey of the con-flicted boundary, which was caused by the disagreement of the disputants as to the true location of FZ Corner 135, and that the recommendation, establishing a common boundary line of the conflicting con-cessions, was earlier approved and implemented by the Bureau of Forestry and the Department of Agriculture and Natural Resources on January 3, 1962, that this representation contends that the Bureau's decision of October 18, 1962, is illegal. If this decision will be enforced, the common boundary line recommended by Valerio as already ap-proved, and implemented, will necessarily be modified and ALSONS, as a consequence, will be deprived of a 529-hectare por-tion of its licensed area." (Respondent ALSONS' brief, pp. 67-70)

Plainly, the conflicting versions by the private contending parties are matters which can and ought to be finally resolved only after a hearing on the merits. It is true that as a general rule findings of fact by ad-ministrative officers in matters falling within their competence will not be reviewed by the courts, except in cases of clear, manifest and grave abuse of discre-tion, amounting to want or excess of jurisdiction. This point, however, is not relevant to the question of jurisdiction of the courts in petitions for review or for certiorari and/or prohibition properly brought before them, but only to the correctness of their actuations should they set aside the administrative findings upon grounds other than that above stated. A proper hear-ing on the merits to test the correctness of the ad-ministrative decision within the limits thus laid down for judicial inquiry can hardly be considered fatal to such jurisdiction. That courts will not ordinarily review and overturn the facts found by the administrative authority does not mean that they cannot take cognizance of the case at all.

In the present case the merits of the basic con-troversy have not yet been fully ventilated before respondent Judge. He has merely issued a writ of pre-liminary injunction, after hearing the parties on that specific question of whether or not it should issue. And respondent Judge ordered the issuance of the injunction on the ground that there was a prima facie showing that respondent ALSONS had been denied due process in connection with the administrative decision assailed before him. His Honor said:

"It was, therefore, necessary that actual investigation pursuant to FAO No. 6-2 of July 1, 1962 be made for the settlement of their original dispute so as to determine, after investigation of the location of the disputed Forest Zone Corner 135 mentioned in the descriptions of the licensed areas of the dis-putants, the correct boundary line be-tween the two licensed areas. This would have settled definitely this dispute, as the parties are agree on how to determine Forest Zone Corner 135 which, according to RICO, is 'identical to a tree belonging to the mili???? family, 70 centimeters in diameters along a cutline with an (X) mark and the figure chiselled in it 569/4' (par. (a), supra.) and which, according to a description cited with approval by ALSONS is 'cor. 12, identical to Forest Zone 135 or T.I. 569/4 chi-selled on a Narig tree 70 cms. in diameter (see 3d par. of Annex 'P', Partial Stipula-tion of Facts). No investigation pursuant to FAO No. 6-2 was made. On the contrary, the Office of the President ignored ALSON'S motion (Annex E to petition) for ground veri-fication.

Under the due process clause of the Constitution of our Republic, the boundary dispute between RICO and ALSONS may law-fully be decided only after investigation pursuant to the duly prescribed procedure, that in, in the instant ease, pursuant to FAO No. 6-2 of July-1, 1962. To decide said dispute in any other way, oven in the best of intentions, unless by agreement of both parties to the dispute, would be contrary to law end

therefore would amount to an abuse of discretion reviewable by this Court.

In the light of the undisputed facts set out above, in relation to petitioner's application for a writ of preliminary injunction, this Court finds *prima facie* that FAO No. 6-2 of July 1, 1962 was violated and the decisions of the respondent off-icials are *prima facie* null and void because apparently rendered without due process of law."

The reasons for the issuance of the preliminary injunction were further clarified by respondent Judge in his subsequent order of June 25, 1965, denying herein petitioners' motion for reconsideration. Thus:

"Notwithstanding the provisions of Section 6 of FAO No. 6-2, and in spite of the fact that a ground investigation after notice to the parties affected is not only feasible but would have conclusively settled the boundary dispute between ALSONS AND RICO, the respondent officials rendered the decisions now under review without the ground verification or investigation required by Section 6 of FAO No. 6-2. The respondents claim ex-ception from the requirement of a ground investigation because previous investigations were allegedly made and thus rendered unnecessary a ground investiga-tion; but there does not appear to have ever been made any previous ground inves-tigation with prior notice to the parties as required in Section 6 of FAO No. 6-2, for the only time when representatives of the parties were called regarding this matter was on October 9, 1961 and October 11 and 12, 1961 when Bureau of Forestry Scaler Romulo B. Valerio fixed the boundary line between the licensed areas of the parties by their agreement and not as a result of ground investigation and hearing of the parties pursuant to Section 6 of FAO No. 6-2 (Annex K, Partial Stipulation of Facts); but said agreement, implemented by the respondent Director of Forestry in his letter of January 3, 1962 to respondent RICO (Annex N., Partial Stipulation of Facts), was repudiated by respondent RICO in his letter of July 19, 1962 to respondent Director of Forestry (Annex O, Partial Stipulation of Facts), prompt-ing petitioner ALSONS to protest against fixing any new boundary line affecting his licensed area (Annex P. Partial Stipulation of Facts). The administrative decisions under review fixes the disputed boundary line be-tween the rival licensed areas without ground investigation provided in Section 6 of FAO No. 6-2, and apparently without the report called for in Section 7 of FAO No. 6-2."

We are not prepared to find at this stage that respondent trial court is without jurisdiction to take cognizance of the case at all, or that it gravely abused its discretion in ordering the issuance of the writ of injunction complained of. Rico's opposition to the injunction, mainly on the ground that the matters involved are purely administrative and discretionary in nature, is at best not indubitable, and the court's ac-tuation does not constitute undue interference with administrative proceedings. The injunction has not overturned the administrative decision, it has merely ordered the disputed area to be off-limits to either of the contending license holders during the pendency of the case. In other words, what has been enjoined is only the use and exploitation of the contested area until the boundary dispute can be decided.

The foregoing considerations remove this case from the ambit of our decision in *Suarez vs. Hon. Andres Reyes* (G. R. No. L-19828, Feb. 28, 1963). In that case the preliminary injunction issued by the trial court tended to disturb the status quo between the contending timber licensees and, indeed, even to maintain in effect the temporary timber license of respondent therein after it had already expired and after the logging operations thereunder had been ordered stopped by the Director of Forestry pursuant to a directive of the President. In the present case, however, the injunction of respondent Judge was precisely for the maintenance of the status quo while the case is pending. In our view, therefore, the injunction was not improvidently issued.

The next question is whether Rico may be held to, answer a charge of contempt of the trial court in conduct-ing logging operations within the disputed area during the pendency of the case in the Court of Appeals. Both the trial court and the Court of Appeals were of the opinion that the writ of preliminary injunction issued by the latter court on November 28, 1965 did not have the effect of suspending the effectivity of the writ issued by the trial court. The clear terms of the said appellate court's injunction, however, was for respondent Judge to refrain from

enforcing, among others, his order of April 5, 1965. Since it was this particular order which directed the issuance of the writ that was actually issued on the following April 8, Rico had good reason to believe that by enjoining the enforcement of the basic order the Court of Appeals likewise enjoined the enforcement of the writ itself. For as Rico points out: "Of what use would it be to pro-hibit the enforcement and execution of the order of April 5, 1965, if the writ issued pursuant thereto would be en-forced and carried into effect? To construe that the in-junction of the Court of Appeals restrained the enforcement of said order of April 5, but not that of the writ of April would render said injunction meaningless. . ."

We find, therefore, that when Rico conducted logging operations in the disputed area after the issuance of the appellate court's injunction he did not do so in contempt of the trial court, and further proceedings therein in this respect should be stopped.

Petitioner Rico questions the validity of the decision of the Court of Appeals in CA-G. R. No. 36722-R on the ground that the Special Fifth Division which rendered it, composed of Justices Antonio Cañizares, Francisco Capis-trano and Jose Rodriguez, was not the Division to which the case properly belonged, and that it was Justice Nicasio Yatco, instead of Justice Rodriguez who should have taken part in deciding the case, together with the other two Justices. We do not consider this point of any vital im-portance, considering that essentially what is before us for review is not the decision of the Court of Appeals but the different orders of respondent Judge of First Instance in the case pending before him (Civil Case No. 59000). And whatever may be said of the said decision would not affect, one way or the other, the findings and conclusions we have arrived at.

On October 7, 1970, respondent ALSONS filed a motion to declare petitioner Rico in contempt of this Court for having allegedly cut at least 34 logs inside the disputed area, in violation of the preliminary injunction we issued on March 8, 1966, according to a report of Forest Guard Gregorio L. Canlas dated August 30, 1970. Rico answered the motion on October 20, 1970, attaching a subsequent report of the sane Gregorio L. Canlas to the effect that upon verification made by him and by a number of Constabulary officers on September 10, 1970 it was found that no logging operations had been conducted by the petitioner in the disputed area. The motion for contempt is therefore without basis.

Wherefore, the petitions in these two cases are denied, and the writ of preliminary injunction issued by this Court is dissolved, except as to the part thereof relating to the charge of contempt in the lower court against petitioner Rico and against counsel for the Director of Forestry, as to which the said injunction is hereby made final. Costs against petitioner Rico.

Reyes, J.B.L., Acting C.J., Dizon, Zaldivar, Castro, Teehankee, Villamor, and Makasiar, JJ., concur.
Fernando and Barredo, JJ., did not take part.
Concepcion, C.J., on leave.

[1] Section 6 of Forestry Administrative Order No. 6-2, series of 1941 reads:

"6. Investigation conflicts. - Adverse claims when properly asserted and reports of conflicts received within the time specified in the next preceding section, shall be caused to be investigated, if this has not yet been done, by the Director of Forestry. The investigation shall be made whenever possible on the very ground and after both parties have been advised of the hour and date when the place where it will be held, and of the nature of the case. The notice of the investigation shall be served upon them at least one week before the date set for the investiga-tion.

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