

**ZAMBOANGA GENERAL UTILITIES, INC., PETITIONER-APPELLANT,
VS. THE HON. SECRETARY OF AGRICULTURE & NATURAL
RESOURCES; THE DIRECTOR OF LANDS AND GOODRICH
INTERNATIONAL RUBBER COMPA...**

G.R. No. L-21275. July 31, 1967

Ponente: ANGELES, J.

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ANGELES, J.:

We are asked in this appeal to reverse the order of the Court of First Instance of Basilan City dis-missing for lack of jurisdiction the petition for cer-tiorari in Special Civil Case No. 63 of said court.

The facts are not disputed.

A protest was filed with the District Land Office of the Bureau of Lands at Zamboanga City by the Zam-boanga General Utilities, Inc. against the Goodrich International Rubber Company, Inc., for the forcible occupation over, and encroachment into, a portion of public land which had already been applied for, occupied and improved by the former. After hearing, at which both parties were represented, the Director of Lands, on June 27, 1958, rendered a decision awarding the whole of Lot No. 1, SWO-40126, and one hundred forty-four (144) hectares of Lot No. 2, SW0-40126, the contested lot, to the Zamboanga General Utilities, Inc., and to the Goodrich International Rubber Company, Inc., three hundred eighty (380) hectares of said Lot 2. Feeling aggrieved, Zam-boanga Utilities appealed to the Secretary of Agriculture and Natural Resources on the basic contention that it was entitled to the whole area of Lot No. 2. On February 26, 1959, the Secretary rendered a decision "concurring in the result" of the decision of the Director of Lands, and denied the appeal. Motion for reconsideration having been denied, the Zamboanga Utilities filed a petition for a writ of certiorari with this Court on March 22, 1960, but this was dismissed "without prejudice to filing an action, if any, in the Court of First Instance."

Accordingly, on June 22, 1960, Zamboanga Utilities filed with the Court of First Instance of Basilan City a petition for "CERTIORARI" against the Secretary of Agri-culture and Natural Resources, the Director of Lands, and Goodrich International Rubber Co., Inc. On July 28, 1960, the Secretary of Agriculture and Natural Resources and Director of Lands, through their respective counsels filed separate answers. On July 29, 1960, the Goodrich also filed, through counsel, its answer with counterclaim.

On September 26, 1960, the petitioner filed a peti-tion for preliminary injunction, praying that the Director of Lands be enjoined from proceeding with the sale at pub-lic auction of a portion of public land including the con-tested area. On October 11, 1960, counsel for Goodrich filed opposition to the petition, and after due hearing, the court granted the petition for the issuance of the preliminary injunctive writ, upon petitioner's filing a bond. On November 8, 1960, counsel for respondent Good-rich filed a motion for the dissolution of the writ on the ground that the averments in the petition are not suffi-cient to warrant its issuance. Despite opposition from the petitioner, and upon filing of a counterbond by movant Goodrich, the preliminary injunction was ordered

dissolved.

On January 14, 1963, or about four months after the respondents had filed their answers, a joint motion to dismiss the petition for certiorari was filed by the respondents on the ground that the court "has no jurisdiction to review by writ of certiorari the decisions and acts of the Secretary of Agriculture and Natural Resources and Director of Lands performed outside the City of Basilan, pursuant to section 44(h) of the Judiciary Act of 1948". The motion was granted, and the petition was dismissed on March 11, 1963, the lower court citing as authority the case of *Samar Mining Co. vs. Amado*, G. R. No. L-17109, decided on June 30, 1961. From the order of dismissal, the petitioner elevated the case to Us for review.

In support of the contention that the order of dismissal was erroneous, the petitioner-appellant stresses on the untimeliness of the motion to dismiss, stating that venue had been waived since the motion was filed long after the respondents had filed responsive pleadings, that is, their answers to the petition for certiorari. Respondents-appellees, on the other hand, insist that the basis for the motion to dismiss was not improper venue but "lack of jurisdiction based on Section 44(h) of the Judiciary Act of 1948", which cannot be waived and may be interposed at any time of the proceedings. In other words, that the lower court has no authority to hear and determine the case.

The question of whether or not the Court of First Instance of Basilan has the power to "hear and determine the case", and to review the decision of the Secretary of Agriculture and Natural Resources and the Director of Lands - which would seem to be the main question posed herein - was raised and passed upon in *Gayacao vs. Executive Secretary, etc., et al.*, G. R. No. L-21066, April 30, 1965. This Court, speaking through Mr. Justice J.B.L. Reyes, there said:

"The doctrine invoked in support of the theory of non-jurisdiction (*Castañón vs. Lobingier*, 7 Phil. 91; *Acosta vs. Alvendia*, L-14598, Oct. 31, 1960; *Samar Mining vs. Amado*, L-17109, June 30, 1961) are inapplicable, in that those cases involved petitions for writs of injunction seeking to control the actions of courts or officers outside the territorial jurisdiction of the respondent courts involved. Here the sole point in issue is whether the decision of the respondent public officers was legally correct or not, and, without going into the merits of the case, we see no cogent reason why this power of judicial review should be confined to the courts of first instance of the locality where the offices of respondents are maintained, to the exclusion of the courts of first instance in those localities where the plaintiffs reside, and where the questioned decisions are being enforced.

"It is easy to see that if the contested ruling of the court below is sustained the same would result not only in hardship to litigants of limited means, practically amounting to denial of access to the courts, but would also unnecessarily encumber the Manila courts whose dockets are already overburdened. Actually, since *Ortúa vs. Singson*, 59 Phil. 440, the power of provincial courts of first instance to review administrative decisions of national officials has been consistently recognized."

In line with the principle laid down in this case, we hereby sustain the jurisdiction of the lower court over the petition for certiorari.

Of course, as stated in the above-quoted pronouncement, the rule is different in petitions for injunction which seek to control the actions of courts and officers. Jurisdiction or authority of Courts of First Instance to control or restrain acts by means of the writ of injunction is limited to acts which are being committed or about to be committed within the territorial boundaries of their respective provinces and districts (*Acosta vs. Alvendia*, supra; See also *Alhambra Cigar, etc., et al. vs. National Administration of Regional Office No. 2, etc., et al.*, L-20491, August 31, 1966.) While there was in the case at bar a petition for writ of preliminary injunction filed sometime after the main petition had been instituted, the respondent officials, particularly the Director of Lands against whom the writ was directed, had failed to challenge the jurisdiction of the court to issue the writ. Only the

respondent Goodrich objected to its issuance, but without raising the question of jurisdiction as a ground for its opposition. At any rate, since the writ had been dissolved upon motion and filing of counterbond by Goodrich, the main petition remains as one for mere "CERTIORARI", and the jurisdiction of the court in issuing the preliminary injunctive writ is no longer a question for determination.

WHEREFORE, the order complained of is hereby set aside with costs against the Goodrich International Rubber Company, Inc. Let the records of this case be remanded to the court below for further proceedings.

Reyes, JBL, Acting C.J., Makalintal, Bengzon, JP, Zaldivar, Sanchez, and Fernando, JJ., concur.

Ruiz Castro, J., on leave, did not take part.

Concepcion, C.J., and Dizon, J., on official leave of absence.

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