

AGUSMIN PROMOTIONAL ENTERPRISES, INC., PETITIONER, VS. HON. COURT OF APPEALS, P. B. DE JESUS & CO., INC., BENJAMIN V. GUIANG, AND CRISOSTOMO LICERALDE, RESPONDENTS.

G.R. No. L-48478. September 30, 1982

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

Appeal by certiorari from the decision of the respondent Court of Appeals in Civil Case No. SP-05644, entitled, "P.B. de Jesus & Co., Inc., petitioners-appellees, versus The Executive Secretary, et al., respondents-appellants," which affirmed in toto the letter-decisions of the Office of the President in DANR Case No. 3093-A and DANR Case No. 3562, and ordering the herein petitioner to pay the herein private respondent, P.B. de Jesus & Co., Inc., the amounts of P1,278,834.90, with interests thereon at the rate of 12% per annum from the filing of the petition with the trial court, and P50,000.00 by way of attorney's fees.

There is no dispute as to the material facts. The parties executed a Stipulation of Facts which included the following: The herein private respondents Benjamin V. Guiang, Guiang for short, and Crisostomo M. Licalde, Licalde for short, are holders of ordinary timber licenses covering a forest area in Talacogon, Agusan del Sur, and more particularly, Timber License O.T. No. 1489-'57 (new), covering an area of 5,650 hectares, and Timber License O.T. No. 1488-'57 (new), covering an area of 2,500 hectares, respectively.[1]

On March 6, 1957, Guiang and Licalde and six (6) other timber concessionaires in the locality, asked the Secretary of Agriculture and Natural Resources if they could consolidate their timber concessions in the name of a corporation which they will form.[2] The matter was referred to the Director of Forestry,[3] and after subsequent time, the Secretary of Agriculture and Natural Resources answered Guiang and Licalde that his "Office concurs in the observations of the Director of Forestry regarding the matter and interposes no objection to your plan of incorporating yourselves into a corporation after which your respective timber licenses may be consolidated into one license." [4] Accordingly, Guiang, Licalde and the six (6) other timber licensees, organized the AGUS-MIN PROMOTIONAL ENTERPRISES, INC., hereinafter referred to as AGUSMIN, for short, which was then issued consolidated timber license O.T. No. 261-'58 (new) on July 2, 1957, covering a total forested area of 18,890 hectares in the municipalities of Comuta and Talacogon, Agusan del Sur, with an allowable net cut of 19,000 cubic meters.[5]

However, on August 2, 1968, Guiang and Licalde, due to some differences with the majority group in the corporation, requested the Secretary of Agriculture and Natural Resources that they be allowed to withdraw their respective forest areas under their original timber licenses from the consolidated timber license of AGUS-MIN and consolidate them with the timber license of Pedro B. de Jesus and Sulpicio Lagnada. The request was referred to the Director of Forestry who, thereafter, declared that the request is beyond his jurisdiction since the decision of the eight (8) original licensees to consolidate their forest areas had the effect of renouncing their respective identities as individual licensees and that the issuance of a new timber license to Guiang and Licalde will be in

violation of forestry rules and regulations.[6]

Guiang and Licalalde thenceforth appealed to the Department of Agriculture and Natural Resources, where the appeal was docketed as DANR Case No. 3093-A. Re-solving the appeal, the Secretary of Agriculture and Natural Resources issued a letter-decision on May 17, 1967, reversing the decision of the Director of Forestry and authorizing Guiang and Licalalde to withdraw their forest areas from the timber license of AGUSMIN for the reasons that the individual rights and separate identities of the eight (8) original licensees did not constitute a transfer in the strict sense of the word and that the Articles of Incorporation of AGUSMIN did not, likewise, show that the transfer of the eight (8) individual licensees in favor of AGUSMIN was contemplated.[7]

Guiang and Licalalde sought the immediate implementation of the aforesaid decision by filing a motion for immediate execution on May 31, 1967, which was granted by the Secretary of Agriculture and Natural Resources over the opposition of AGUSMIN, upon their putting up a bond in the amount of P161,395.20 to "answer for whatever respondent AGUSMIN Promotional Enterprises may suffer as a result of the immediate execution of the Decision of the Secretary of Agriculture and Natural Resources dated May 17, 1967, should its appeal from the said decisions be found meritorious. Thereafter, Guiang, Licalalde and Pedro B. de Jesus, a holder of Ordinary Timber License No. 42-'67, formed a corporation known as the P.B. DE JESUS & CO., INC., herein-after referred to as DE JESUS & CO., for short. On July 20, 1967, the Director of Forestry informed DE JESUS & CO. of the approval of its petition for consolidation and on February 12, 1968, the Director of Forestry issued to it Ordinary Timber License No. 133--'71 (new), which is a consolidation of O.T. No. 42-'67 of Pedro B. de Jesus; O.T. No. 1489-'57 (new) of Benjamin V. Guiang; and O.T. No. 1488-'57 (new) of Crisostomo Licalalde.[8]

Meanwhile, on June 3, 1967, AGUSMIN interposed an appeal from the decision of the Secretary of Agriculture and Natural Resources in DANR Case No. 3093 and DANR Case No. 3093-A, by filing a notice of appeal, stating that it was appealing said decision to the Office of the President and that it received copy of the decision of May 12, 1967 on June 2, 1967. On June 5, 1967, AGUSMIN paid an appeal fee of P10.00 to the Department of Agriculture and Natural Resources, and thereafter, submitted an Appellant's Appeal Memorandum. On July 12, 1967, AGUSMIN also paid the sum of P20.00 as appeal fee to the Office of the President then called for the elevation of the records of DANR Case No. 3093-A. It also ordered AGUSMIN to furnish Guiang and Licalalde with a copy of its Appeal Memorandum, and directed Guiang and Licalalde to file a reply thereto within 15 days after receipt of the Appellant's Appeal Memorandum.[9]

Guiang and Licalalde, however, filed, instead, an Urgent Motion to Dismiss Appeal on July 24, 1967, contending that the appellant therein failed to comply with all the requirements of Executive Order No. 19, series of 1966, to perfect an appeal to the Office of the President by not paying the appeal fee of P20.00 which is charged for every appeal or petition for review with the Office of the President, so that the Office of the President did not acquire jurisdiction over the case, and, hence, the decision of the Secretary of Agriculture and Natural Resources became final and executory after the lapse of thirty (30) days from receipt of a copy of the said decision. Guiang and Licalalde also filed a petition for extension of time to file their reply to the Appellant's Appeal Memorandum pending resolution of their urgent motion to dismiss appeal.[10]

On May 7, 1968, the Office of the President, through Assistant Executive Secretary Gilberto M. Duavit, issued a decision in the appealed case, reversing and declaring of no force and effect the decision of the Secretary of Agriculture and Natural Resources.[11]

Guiang and Licalalde moved for the reconsideration of the decision, but after the lapse of three (3) months without their motion for reconsideration being acted upon, on December 28, 1968, Guiang, Licalalde, and DE JESUS & CO., filed a petition for certiorari and prohibition with preliminary injunction with the Court of First

Instance of Manila, docketed therein as Civil Case No. 75201, against the Executive Secretary, Asst. Executive Secretary Gilberto M. Duavit, the Secretary of Agriculture and Natural Resources, the Director of Forestry, and AGUSMIN. However, the case was dismissed on January 22, 1969 on the ground that the court considered it too presumptuous for it to take over and decide the matter which was then still pending consideration in the Office of the President. As a result, Guiang and Lice-ralde filed with the Office of the President an ex-parte petition for the resolution of their urgent motion for reconsideration.[12]

On February 16, 1970, AGUSMIN requested the Director of Forestry for a renewal of its timber license covering a forest area of 32,800 hectares for another four (4) years. The request was favorably endorsed to the Office of the President and was given due course by that Office.[13]

Upon learning of the matter, DE JESUS & CO. requested the Office of the President to recall its approval of the petition for renewal of AGUSMIN's timber license covering a forest area of 32,800 hectares, instead of only 25,560 hectares, since the portions previously consolidated by Guiang and Liceralde have already been consolidated in its own working unit. The matter was referred to the Director of Forestry who, afterwards, approved the request. The timber license of AGUSMIN was, consequently, modified and renewed to cover only 25,560 hectares under its timber license O.T. No. 294-'74.[14]

AGUSMIN was not satisfied with the action of the Director of Forestry in excluding 7,240 hectares and appealed to the Secretary of Agriculture and Natural Resources where the case was docketed as DANR Case No. 3365. On November 4, 1970, the Secretary of Agriculture and Natural Resources required AGUSMIN to furnish DE JESUS & CO. with a copy of its Appeal Memorandum and directed DE JESUS & CO. to submit its reply thereto within 15 days after receipt of the said Appeal Memorandum. DE JESUS & CO., however, filed, instead, a motion to dismiss the appeal.[15]

On May 12, 1971, the Secretary of Agriculture and Natural Resources denied the appeal for lack of merit. Consequently, AGUSMIN interposed an appeal to the Office of the President and filed an Appeal Memorandum on June 15, 1971. The Office of the President then required DE JESUS & CO. to file its reply thereto, but, again, DE JESUS & CO. did not file an answer. Instead, it submitted a motion to dismiss the appeal on the ground that the decision of the Secretary of Agriculture and Natural Resources had become final and executory and therefore could not be reviewed on appeal by the Office of the President.[16]

On May 8, 1972, the Office of the President, through Asst. Executive Secretary Ronaldo B. Zamora, issued a decision, declaring its decision in DANR Case No. 3093-A, involving the 7,240 hectares of Guiang and Liceralde as final and executory and modifying the decision of the Secretary of Agriculture and Natural Resources in DANR Case No. 3562 to that effect.[17]

Whereupon, DE JESUS & CO., Guiang and Liceralde filed a petition for certiorari, prohibition and mandamus with preliminary injunction, with the Court of First Instance of Manila, docketed therein as Civil Case No. 87209, to annul and set aside the letters-decisions of the Executive Secretary in DANR Case Nos. 3093-A and 3562, dated May 7, 1968 and May 8, 1972, respectively; to declare, as final and executory, the letter-decisions of the respondent Secretary of Agriculture and Natural Resources in DANR Case Nos. 3093-A and 3562, dated May 17, 1967 and May 12, 1971, respectively and compel said respondent Secretary to enforce the said decisions and to enjoin respondent public officials from disturbing the rights of DE JESUS & CO., Guiang, and Liceralde in their possession of the forest areas in question; and to order AGUSMIN to pay Guiang, Liceralde and DE JESUS & CO. moral, exemplary, as well as actual, damages, and attorney's fees.

On February 28, 1974, the President of the Philippines, by Letter of Instruction No. 172, of even date, ordered the cancellation of Timber License O.T. No. 294--'71 issued to AGUSMIN.

After conclusion of the trial, or on December 26, 1975, judgment was rendered, as follows:

"PREMISES CONSIDERED, judgment is hereby rendered:

"1. Declaring both letters-decisions of the Office of the President in DANR Case No. 3093-A and DANR Case No. 3562 null and void ab initio and further declaring the decision of the respondent secretary in DANR Case No. 3093-A, dated May 17, 1967 as final and executory;

"2. Condemning private respondent AGUSMIN Promotional Enterprises, Inc. to pay petitioner P.B. de Jesus Co., Inc., the total sum of P1,278,834.90 plus 12% interest commencing from the filing of this instant petition;

"3. Ordering private respondent AGUSMIN Promotional Enterprises, Inc. to pay petitioners the total sum of P50,000.00, by way of attorney's fees; and

"4. To pay the costs of suit."[18]

AGUSMIN appealed to the Court of Appeals, and on February 10, 1978, the said appellate court issued a decision, affirming in full the judgment of the trial court.

Hence, the present recourse.

1. The petitioner contends that the respondent Court of Appeals erred in holding and concluding that the issue of validity or invalidity of the decision of the Executive Secretary in DANR Case Nos. 3093-A and 3562 have already become moot and academic.

This contention is devoid of merit. The respondent appellate court at no time ruled that the issue of the validity of the decisions of the Executive Secretary in the aforementioned cases have become moot and academic. What the Court of Appeals found to be moot and academic was "the issue between the parties concerning the validity of their respective timber licenses." The Court of Appeals said:

"This uncontested fact notwithstanding and with the lower court evidently recognizing that the said Letter of Instruction No. 172 seems to have rendered moot and academic the issues as to the forest area involved in this instant petition, the court a quo nevertheless proceeded to discuss the same issues and ruled that the decisions of the Secretary of Agriculture and Natural Resources in DANR Cases Nos. 9093-A and 3562 prevail over the letter decision of the Asst. Secretary in the Office of the President. Obviously with the cancellation of the timber license No. 294-74 of the private respondent AGUS-MIN, pursuant to Letter of Instruction No. 172, as this is now an established uncontested fact, said respondent is left without anymore right to assert against the petitioners-appellees. The issue between the parties concerning the validity of their respective timber licenses necessarily have been, to say the least, rendered moot and academic. Further time spent in an unnecessary discussion of this particular matter, will no longer serve a gainful purpose and will be an unnecessary task for this court to assume."[19]

2. The petitioner also contends that the Court of Appeals erred in not holding that the decisions of the Executive Secretary in DANR Case Nos. 3093-A and 3562 were validly issued. The petitioner excepts to the findings of the trial court that AGUSMIN had not perfected its appeal from the adverse decision of the Secretary of Agriculture and Natural Resources to the Office of the President for its failure to pay the correct amount of the appeal fee within the period prescribed by Executive Order No. 19, series of 1966; and that the right to procedural due process was violated by the Executive Secretary when he rendered the disputed letter-decisions without first resolving the motion to dismiss and the motion for extension of time within which to file a reply pending resolution of the said motion to dismiss; and argues that the failure of the appellant to pay the correct amount of the appeal fee at the time of the filing of the Notice of Appeal does not constitute a ground for the dismissal of the appeal; rather, it is the failure of the appellant to pay the appeal fee within the time required of him by the Office where the appeal is taken that constitutes sufficient cause for the dismissal of his appeal; and that there is no violation of procedural due process since Guiang and Licalalde were given

the opportunity to file a reply to the petitioner's appeal memorandum but they filed a motion to dismiss instead.

While there may be some merit in the arguments of the petitioner since the rule is that "in deciding administrative questions, technical rules of procedure are not strictly enforced and due process of law in the strict judicial sense is not indispensable,"[20] little, if any, useful purpose could be gained in further discussing these issues because Letter of Instruction No. 172, which ordered the cancellation of the timber license issued to AGUSMIN, in effect, reversed and set aside the said decisions of the Executive Secretary before the same became final and enforceable. In the words of the Court of Appeals, the said decisions "did not acquire any finality." The Court of Appeals said:

"True it is that on May 8, 1968, the office of the Executive Secretary reversed the order of the DANR but this decision of the office of the Executive Secretary, dated May 7, 1968, did not acquire any finality for the same was received by the petitioners-appellees Benjamin V. Guiang and Crisostomo Licalalde, parties appellants in DANR Case No. 3093-A, on September 14, 1968 (See Annex A, Stipulation of Facts, par. 29) and an urgent motion for reconsideration with the office of the President was interposed on Sept. 25, 1968 (Annex BB; par. 30, Stipulation of Facts). That said motion for reconsideration remained unresolved, prompted the filing of Civil Case No. 75201 on December 28, 1968 and subsequently a similar suit, under Civil Case No. 87209, on May 30, 1972.

"Incidentally Civil Case No. 75201 was dismissed, without considering the merits of the petition, but only on the ground that the basic issue in the petition in Civil Case No. 75201 was then still pending before the Office of the President under petitioner's motion for reconsideration dated Sept. 25, 1968. (Order, Civil Case No. 75201, January 22, 1969, Annex DD-1, to the Stipulation of Facts). Significantly, this same order of January 22, 1969 in Civil Case No. 75201 indicates that implementation of the letter decision dated May 7, 1962, may well be restrained, but such should be sought first from the Office of the President.

Considering however that up to May 30, 1972 no resolution on petitioners' motion for reconsideration was made by the Office of the President, petitioners herein understandably filed anew or reiterated its suit against respondent AGUS-MIN under Civil Case No. 87209 on May 30, 1972.

"The background details recited therefore disclose that no finality was ever achieved by the letter decision of the Executive Secretary in favor of respondent AGUSMIN dated May 7, 1962 in view of the motion for reconsideration filed by petitioners herein in said DANR 3093-A. Under such situation the aforesaid Surety Bond, earlier posted by petitioners herein under DANR Case Nos. 3093 and 3093-A duly approved by Director of Forestry, subsists as a restraining factor that would enjoin respondent AGUS-MIN from immediately conducting logging operations in the area conceded to the petitioners herein, P.B. de Jesus, by the DANR. As now stands, the letter decision of the Office of the Executive Secretary dated May 7, 1962 never gained finality and has in fact now been overturned in the judgment rendered in Civil Case No. 87209 of the Court below, dated November 27, 1975. Not only this, the timber license rights of respondent AGUS-MIN, was even then earlier cancelled on February 28, 1974 by the Office of the President under Letter of Instruction No. 172." [21]

3. The petitioner further claims that the Court of Appeals committed a grave error of law in holding and concluding that petitioner's logging operation was without any valid right, and consequently condemning it to pay the value of the logs taken by the petitioner in the amount of P1,278,874.90. The petitioner argues that the decisions of the Executive Secretary were valid and declared to be immediately executory, hence, petitioner's logging operations was duly authorized and not an illegal cutting operation.

The contention is without merit. As we have pointed out, the decisions of the Executive Secretary did not acquire any finality. On the other hand, the record shows that the decision of the Secretary of Agriculture and Natural Resources in DANR Case No. 3093-A was immediately executed, pending the appeal of AGUSMIN to the Office of the President, upon the filing of a bond by the herein private respondents in the amount of P161,395.20, to answer for whatever damages AGUSMIN may incur as a result of the immediate execution of the decision of

the Secretary of Agriculture and Natural Resources, dated May 17, 1962, should its appeal from the said decision be found meritorious, and soon thereafter, a consolidated timber license, O.T. No. 133-'71 (new) was issued in the name of DE JESUS & CO., so that AGUSMIN was in bad faith when it conducted logging operations in the forest areas which have already been awarded to DE JESUS & CO. and despite the bond filed therein. As the Court of Appeals said: "The filing of said same bond by P.B. de Jesus & Co., Inc., inherently connotes that respondent AGUS-MIN, whose rights already stand safe-guarded, is precluded from encroaching upon and conducting logging operations in the area of the petitioners-appellees, which had been recognized by the DANR". Under the circumstances, the judgment of the lower court awarding to DE JESUS & CO. the amount of P1,278,834.90 should be upheld and maintained.

In this connection, Guiang and Licalde have reiterated their request that the compensatory damages awarded to DE JESUS & CO. in the amount of P1,278,834.90 should be given to Licalde from whose timber concession the logs were cut by AGUSMIN, since the personality of the timber licensee is not lost after consolidation. This request, however, is opposed by DE JESUS & CO. on the ground that Guiang and Licalde have renounced their rights over the forest areas originally licensed in their names in favor of Vicente C. de Jesus and Ramon C. de Jesus, respectively, which, in turn, is denied by Guiang and Licalde. There being an issue of fact which is still to be resolved, We find no cogent reason to modify the judgment of the Court of Appeals at this stage of the proceedings. Besides, as the Court of Appeals found: "Guiang and Licalde have even stated in their 'Urgent Motion to allow the filing of their Memorandum and Comment,' dated October 10, 1977, 'The division of damages among the consolidants shall be the internal problem of the petitioners.'"

WHEREFORE, the petition should be, as it is hereby, DENIED. With costs against the petitioner.

SO ORDERED.

Barredo, (Chairman), Guerrero, De Castro, and Escolin, JJ., concur. Aquino, J., no part. Abad Santos, J., in the result.

[1] Stipulation of Facts, pars. 1 and 2.

[2] Id., par. 3.

[3] Id., par. 4.

[4] Id., par. 6.

[5] Id., pars. 7 and 8.

[6] Id., pars. 11 and 12.

[7] Id., pars. 15, 16.

[8] Id., pars. 18, 19, 21.

[9] Id., pars. 22, 23, 24, 25.

[10] Id., pars. 26, 27.

[11] Id., par. 28.

[12] Id., pars. 30, 31, 32, 36.

[13] Id., pars. 42, 43, 44.

[14] *Id.*, pars. 45, 46, 47.

[15] *Id.*, pars. 49, 50, 51.

[16] *Id.*, pars. 52, 53, 54, 56, 57.

[17] *Id.*, par. 58.

[18] *Rollo*, pp. 151-152.

[19] *Id.*, p. 69, *Decision*, p. 7.

[20] *Manuel vs. Villena*, L-28218, February 27, 1971, 37 SCRA 745.

[21] *Id.*, pp. 81-83, *Decision*, pp. 22-24.

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