

**FRANCISCO SOCORRO, PETITIONER, VS. HON. MONTANO ORTIZ,
PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF AGUSAN,
ZACARIAS C. AQUINO, DIRECTOR OF FORESTRY AND
COMMISSIONER OF CUS...**

G.R. No. L-23608. December 24, 1964

Ponente: REGALA, J.

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REGALA, J.:

Petition for certiorari to review a decision of the Court of Appeals.

On September 16, 1958, petitioner Francisco Socorro won the bid advertised by the Director of Forestry for the occupation and commercial utilization of a tract of public forest in Jabonga, Agusan. The losing bidder therein was the respondent Zacarias Aquino. Consequently, Aquino appealed the said award of the bid to the Secretary of Agriculture and Natural Resources who, in turn, on December 9, 1958, rendered a decision reversing the action taken by the Director of Forestry and awarded the forest area to the respondent Zacarias Aquino. Socorro forthwith appealed the decision of the Secretary of Agriculture and Natural Resources to the President, who, acting through the Executive Secretary, rendered a decision on May 29, 1959, reversing the action of the said Secretary and upheld the award to Socorro by the Director of Forestry.

Subsequently, Aquino filed with the Court of First Instance of Agusan a petition for certiorari and prohibition with preliminary injunction (Civil Case No. 82) against the Executive Secretary, the Director of Forestry and Francisco Socorro, contesting the legality of the award to Socorro.

On October 31, 1960, the Court of First Instance of Agusan rendered a decision awarding the entire forest area herein disputed to Zacarias Aquino. Then, on November 21, 1960, the said court issued an injunction restraining the losing party, Francisco Socorro, from entering and hauling logs from the said forest area.

Consequently, Socorro appealed the above decision to the Court of Appeals and his appeal was docketed as C.A.-G. R. No. 28705. Separately, he filed with the same appellate court a petition for certiorari with prohibition to enjoin the enforcement of the injunction issued by the Court of First Instance on November 21, 1960. This petition for certiorari was numbered C.A.-G.R. No. 28657-R.

Before deciding the principal appeal, however, or case No. 28705-R, the Court of Appeals decided the injunction case, or Case No. 28657-R, in favor of Socorro. In other words, the Court of Appeals enjoined the enforcement of the injunction issued by the lower court on November 21, 1960. This was, in turn, elevated by Aquino to the Supreme Court on a petition for certiorari under G. R. No. L-18254.

While C.A.-G.R. No. 28705-R (the main appeal) was pending in the Court of Appeals and G. R. No. L-18254 was pending in this Court, Aquino and Socorro, on January 16, 1962, entered into a compromise agreement under which they agreed to divide equally among themselves the land in question. So far as pertinent, the agreement provided:

"That the forest area covered by ordinary timber license No. 77-60 issued in the name of Francisco Socorro, situated in Jabonga, Agusan, shall be divided equally between Francisco Socorro and Zacarias C. Aquino (One Thousand Three Hundred (1,300) hectares for Francisco Socorro and One Thousand Three Hundred (1,300) hectares for Zacarias C. Aquino; (See back for division of area)"

The following day, January 17, 1962, Aquino filed with the Supreme Court a motion to dismiss G. R. No. L-18245 grounded on the consummation of the said compromise agreement.

Before the Supreme Court could resolve the motion to dismiss, however, the Court of Appeals rendered its decision in Case No. 28705-R and awarded the entire forest area at bar to Francisco Socorro. Obviously, the Court of Appeals was not furnished a copy of the compromise agreement.

In due time, Aquino filed with the Court of Appeals a motion for reconsideration, and prayed that the decision be set aside or amended to conform to the terms of the compromise agreement.

On June 11, 1962, or before the Court of Appeals could resolve the above motion for reconsideration, the Supreme Court promulgated a resolution 1) approving the compromise agreement, 2) dismissing the petition for certiorari with prohibition (Case No. L-18254) and 3) dissolving the writ of preliminary injunction issued in connection therewith. Subsequently, or on October 6, 1962, the Court of Appeals denied the motion for reconsideration, and in effect insisted that Socorro should be awarded the entire forest area.

Aquino forthwith petitioned the Supreme Court for certiorari to review the denial of his motion for reconsideration. However, this Court dismissed the said petition "without prejudice to rights, if any, under the compromise agreement."

On July 12, 1963, Socorro filed with the Court of First Instance of Agusan a motion for the execution of the decision of the Court of Appeals. The motion, however, was denied by the said lower court in view of this Court's resolution approving the compromise agreement. In brief, the lower court was of the view that as between the decision of the Court of Appeals and the approval by the Supreme Court of the compromise agreement, the latter should be made to prevail.

So once more, the case was taken to the Court of Appeals on a petition for certiorari by Socorro who maintained that the lower court abused its discretion when it denied his motion for execution. In due time, the Court of Appeals dismissed the said petition on two grounds, namely: appeal and not certiorari was the remedy available to Socorro; and that the petition therein filed was not in aid of its appellate jurisdiction. From this decision, Socorro came to Us in this instance.

Upon a careful study of all the incidents in this case, this Court believes that this petition for certiorari should be dismissed. We have already approved the compromise agreement under which the rights of the parties herein are clearly defined. They are to divide and share in equal parts the contested forest area. This they set forth in the said instrument without equivocation. The lower court, therefore, was correct in refusing to order the execution of the Court of Appeals decision which would have run counter to our resolution approving the compromise agreement. In the premises, the Court of Appeals was similarly correct in dismissing the certiorari suit filed therein for indeed, from the denial of the motion for execution, Socorro should have appealed and not petitioned for certiorari.

WHEREFORE, this petition for certiorari is hereby dismissed.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Dizon, and Zaldivar, JJ., concur.

Barrera, J., concur in the result.

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