

**BUENO INDUSTRIAL & DEVELOPMENT CORPORATION,
PETITIONER, VS. HON. MANUEL LOPEZ ENAGE, R.C. AQUINO TIMBER
& PLYWOOD CO., INC. AND RAFAEL C. AQUINO, RESPONDENTS.**

G.R. No. L-31926. May 27, 1981

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for certiorari and mandamus praying for the reversal of the order of respondent judge (now out of the service) holding that in view of the fact that the forest lands subject of the litigation then pending already before the Court of First Instance of Agusan (Special Civil Case No. 168) happened to correspond to the territorial boundary of the province of Agusan del Sur, when Agusan was divided pursuant to Rep. Act 4979, and he had become judge only of the Court of First Instance of Agusan del Norte and Butuan City, Branch II, upon the creation of the Court of First Instance of Agusan del Sur under Rep. Act 6092, and therefore the jurisdiction over the case had been transferred to the said Court of First Instance of Agusan del Sur.

The background facts are related in the memorandum of petitioner, which We feel We can as We do adopt the same, the respondents having failed to file any answer nor memorandum despite Our resolutions of May 6, 1970 and August 3, 1970, on which last date the case was set for hearing. The said memorandum states:

"On January 11, 1964, private respondents R.C. AQUINO TIMBER & PLYWOOD CO. INC., (RCA TIMPLY, for convenience) filed Special Civil Case No. 168 with the lower Court against the herein petitioner, BUENO INDUSTRIAL & DEVELOPMENT CORPORATION (henceforth, BIDCOR, for convenience) among others; on March 17, 1964, the lower Court admitted a First Amended Petition (Annex 'A' of the petition herein) which was countered by BIDCOR with a First Amended Answer with Counterclaims, Defenses, etc., dated November 18, 1965 (Annex 'A-1' of the petition hereof).

"The lower Court, forthwith, conducted prolonged and extensive hearings on the incident of preliminary injunction which was prayed for in the petition, which evidences were agreed upon by the parties and the Court as forming part of the evidences on the merits.

"After the foregoing proceedings, the lower Court granted the preliminary injunction. This was elevated by BIDCOR to this Honorable Court in G.R. No. L-23183 (Bueno Industrial & Development Corporation vs. Hon. Montano A. Ortiz, et al). On October 29, 1965, a Decision was promulgated by this Honorable Court in favor of BIDCOR nullifying the writ issued by the lower Court and practically adjudicating the merits of the claims of RCA TIMPLY in the lower Court (Annex 'B' of the petition herein).

"On November 27, 1967, the lower Court issued a Pre-Trial Order (Annex 'C' of the petition hereof) and because the merits of the claims of RCA TIMPLY had been adjudicated by this Honorable Court in G.R. No. L-23183, BIDCOR's claims for damages against RCA TIMPLY, as contained in its counterclaims, were ordered to be assessed by a Board of Commissioners (three members) by the lower Court on June 19, 1968 (Annex 'D' of the petition herein).

"On January 16, 1969, respondent JUDGE ENAGE, presiding over Branch II of the same Court, formally took

cognizance of Case No. 168 from Branch I of the same Court (Annex 'E' of the petition hereof). This action was confirmed by Administrative Order No. 41 of the Department of Justice dated January 20, 1969 (Annex 'E-1' of the petition hereof).

"On March 13, 1969, respondent JUDGE ENAGE issued a restraining order against RCA TIMPLY in an effort to enforce the Decision of this Honorable Court in G.R. No. L-23183 and on December 15, 1969, the said Court set the continuation of the hearing of the case on February 16, 1970 'from 8:30 A.M. to 7:00 P.M., and to continue thereafter at the same time on the succeeding days without let-up until the case is submitted for decision on the merits' (Annex 'G-1' of the petition hereof).

"After the special elections of provincial officials for Agusan del Sur in 1969 and by virtue of Republic Act No. 4979, which was enacted without Executive approval on June 17, 1967, the province of Agusan was divided into Agusan del Norte and Agusan del Sur. By virtue of Republic Act No. 6092, dated August 4, 1969, the Court of First Instance of Agusan del Sur, XVth Judicial District, was created to take care of cases from Agusan del Sur. Both Republic Acts did not provide for any contingency as to which Court of First Instance (Agusan del Sur or Agusan del Norte), XVth Judicial District, is to try cases coming from Agusan del Sur but which were filed long prior to the division of the province of Agusan into two and the creation of another Court in Agusan del Sur.

"On February 13, 1970, the lower Court unexpectedly issued another Order transferring Civil Case No. 168 to the 'CFI Judge of the new province of Agusan del Sur' on the ground that it no longer has jurisdiction over the said case (Annex 'H' of the petition hereof). This un-expected move was contrary to the opinion of the Undersecretary of Justice which was transmitted to respondent JUDGE ENAGE by wire to the effect that he 'retains jurisdiction over cases from Agusan Sur filed before August 4 last year (1969) when Agusan Sur Court (was) created by Republic Act Sixty Nine Two x x x'.

"Despite a motion for reconsideration of the said Order by BIDCOR, the lower Court refused to change its stand in order 'x x to give the parties all the chances to have this question of jurisdiction finally settled by the Supreme Court in a proper special civil action, the Court being of the opinion that the legal angle herein involved being between a) two different branches of, b) two different Courts of First Instance from c) two different provinces' (Annex 'J' of the petition hereof), hence, the instant proceedings." (Memorandum for the Petitioner, pp. 2-5.)

The foregoing circumstances do not present any complicated issue of law. It is a well entrenched rule that has been followed in all cases practically of the same nature as the present one that jurisdiction once acquired by a court over a case, the same remains with it until the proceedings are finally terminated unless there is a statute that expressly prohibits continuance of the exercise thereof. (*Iburan vs. Labes*, 87 Phil. 234)

Factually, as pointed out by petitioner, the Secretary (now Minister) of Justice had twice advised respondent court to continue exercising the jurisdiction in question, first, thru Administrative Order No. 41 dated January 20, 1969 which precisely transferred Case No. 168 from Branch I to Branch II "in the interest of the administration of justice and pursuant to Section 56 of Republic Act 296" and later, by wire, to the effect that respondent court "retains jurisdiction over cases over (sic) Agusan Sur filed before August 4, 1969" when the said court was created by Republic Act 6092. Strangely, or because of misunderstood sense of independence, respondent judge paid no heed to said orders.

But the case had already progressed before respondent judge quite extensively. The following proceedings had already been held:

- "(1) hearings on the issuance of preliminary injunction prayed for in the petition;
- (2) the grant of the writ of preliminary in-junction by the said Court;

(3) evidences presented during the hearings of the preliminary injunctive writ were agreed upon by the parties and the Court as forming evidences of the parties on the merits of the case – in effect, there had been partial trial on the merits of the case;

(4) there had been pre-trial of the case;

(5) since the decision of this Honorable Court in G.R. No. L-23183 has practically adjudicated the merits of the claims of RCA TIMPLY in Case No. 168, what is left to be assessed are the damages incurred by BIDCOR based upon the latter's counter-claims contained in the Amended Answer;

"(6) there had been an Order issued by the lower Court for the enforcement of the Decision in G.R. No. L-23183 and a citation for contempt which has to be heard against the respondent RCA TIMPLY, et al." (pp. 7-8, Id.)

Indeed, it was quite unusual for His Honor to have quibbled unnecessarily about his jurisdiction over the case. He knew or ought to have known the great inconvenience and complications of making the parties move to another place and before another judge, particularly after his doubts about his authority had been cleared at least administratively by the Secretary of Justice. He could not have forgotten or misunderstood the unbending rule that once jurisdiction attaches properly to a court, that court has the legal authority, nay duty, to proceed to the end. So much so, that neither respondent judge nor private respondents cared to refute the arguments of petitioner neither in an answer nor in a memo-randum.

PREMISES CONSIDERED, the petition is granted and the Court of First Instance of Agusan del Norte, Branch II, whoever is acting as judge thereat now, is ordered to proceed with the hearing of the above-mentioned Case No. 168 until its complete termination and the impugned orders of respondent judge to the contrary are hereby set aside. No costs.

Aquino, Guerrero*, Abad Santos, and De Castro, JJ., concur.
Concepcion, Jr., on leave.

* Justice Juvenal K. Guerrero, Member of the First Division, was designated to sit in the Second Division.

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