

PALANAN LUMBER & PLYWOOD CO., INC., THE EXECUTIVE SECRETARY, THE SECRETARY OF AGRICULTURE & NATURAL RESOURCES, THE DIRECTOR OF FORESTRY, AND THE DISTRICT FORESTER OF ISABELA, PE...

G.R. No. L-27106. March 20, 1968

Ponente: REYES, J.B.L., Acting C.J.

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REYES, J.B.L., Acting C.J.:

Petition for certiorari and prohibition, with preliminary injunction.

The private parties, petitioner Palanan Lumber & Plywood Co., Inc. and respondent Palanan Logging Enterprises, Inc., among several other persons and entities, applied for the occupation and commercial utilization of a forest concession of 50,000 hectares situated at San Mariano and Palanan, Isabela, per Forestry Administrative Order No. 11-13, which required of the applicants their possession of the necessary capital and resources to install a veneer, plywood and wallboard factory, pulpwood and paper mills and other wood processing plant within definite time limits.

After screening the applications, the committee created for the purpose, Committee No. 2 of the Bureau of Forestry, submitted its findings, dated 17 July 1961, recommending award in favor of Palanan Logging Enterprises, Inc. Acting thereon, then Acting Director of Forestry, Tiburcio S. Serevo, issued an order, dated 11 September 1961, granting the award and the corresponding license (O.T. 799-63) to the said company, subject to the approval of the Secretary of Agriculture & Natural Resources.

Petitioner Palanan Lumber & Plywood Co., Inc. moved for reconsideration. The Director of Forestry, M. P. Pecson, in an order, dated 24 August 1962 found the motion meritorious and, therefore, set aside the order of 11 September 1961 and awarded 25,000 hectares to movant Palanan Lumber & Plywood Co., subject to the approval of the Department Secretary, and without prejudice to the disposition of the other 25,000 hectares which could be applied for by Palanan Logging Enterprises, Inc.

Palanan Logging appealed to the Secretary of Agriculture & Natural Resources.

On 3 June 1963, the Secretary of Agriculture & Natural Resources, Benjamin M. Gozon, decided in favor of the appellant and nullified the Director's order of 24 August 1962.

Palanan Lumber & Plywood Co., Inc. in turn moved for reconsideration but its motion was denied by the Department Secretary in an order on 9 September 1963; hence, said company appealed to the President of the Philippines.

On 12 November 1964, the Secretary of Justice and concurrently Acting Executive Secretary, Salvador Mariño, rendered a decision, "By authority of the President", finding the two contending firms to have substantially similar qualifications to operate and develop the forested area and, on equitable considerations, ordered its division into

two equal parts and awarded to the said firms 25,000 hectares each.

The contending parties were then summoned to a conference with a view to implementing the decision of the Committee. Palanan Logging Enterprises, Inc., however, not satisfied with the administrative decision, filed on 1 September 1965, a petition for certiorari and prohibition, with preliminary injunction, with the Court of First Instance of Isabela, alleging that the President's decision was illegal and in abuse of discretion, and citing as respondents the Palanan Lumber & Plywood Co., Inc., the District forester of Isabela, the Director of forestry, the Secretary of Agriculture & Natural Resources and the Executive Secretary. The case was docketed in the said court as Special Civil Case No. 1821.

On 3 September 1965, the Court of First Instance of Isabela issued ex parte a writ of preliminary injunction restraining the respondents therein (petitioners herein) from carrying out the decision of the Executive Secretary, on a bond of P30,000.00.

The respondents below duly filed their Answers and moved for a preliminary hearing for the dismissal of the petition. A preliminary hearing was held, but, on 30 April 1966, the court denied the dismissal of the case. Said respondents moved for re-consideration.

After inaction by the court on the motion for more than 110 days from the time the respondents therein filed their latest pleading, which was a sur-rejoinder, and with the preliminary injunction continued in force all the while, the petitioners filed the present petition with the Supreme Court.

This Court, on 25 January 1967, issued a writ of preliminary injunction restraining the enforcement of the preliminary injunction issued by the lower court.

The issues raised are: whether the Court of First Instance of Isabela has jurisdiction over the subject-matter of its Special Civil Case No. 1821; whether it has jurisdiction to issue in said case an injunction against the respondents therein; and whether it gravely abused its discretion in issuing the ex parte writ of preliminary injunction.

The herein petitioners concede the power of judicial review by provincial courts of first instance of the decisions of national officials, but would confine such power only in those cases where no prohibitory action is involved. Thus, it is contended that the petition for certiorari and prohibition, with preliminary injunction, that was filed in Special Civil Case No. 1821 of the respondent court, not being limited to the review of the legality or illegality of the decision of the Executive Secretary but also seeking to control the acts of national officials who hold their offices in Manila and Quezon City cannot be taken cognizance of by the Isabela court; that the true subject-matter of the said special civil case is the proceeding held and action taken by the said officials, not the forested area, which is merely an incident thereto.

The respondents traverse the above argument as follows: that while the respondent national officials hold their offices in Manila and in Quezon City, the decision dividing the forest concession would be enforced in Isabela where the concession is located, said area being the subject-matter of the case.

We agree with petitioners that the respondent Court acted without jurisdiction in issuing a preliminary injunction against the petitioners Executive Secretary, Secretary of Agriculture and Natural Resources and the Director of Forestry, who have their official residences in Manila and Quezon City, outside of the territorial jurisdiction of the respondent Court of First Instance of Isabela. Both the statutory provision (section 44 of the Judiciary Act, R. A. 296) and the settled jurisprudence of this Court^[1] unani-mously affirm that the extraordinary writs issued by the Courts of First Instance are limited to and operative only within their respective provinces and districts.

Contrary to the submission of respondents, the ruling in *Gayacao vs. Executive Secretary*, G.R. No. L-21066,

April 30, 1965, has not varied the rule, at least in so far as prohibitory writs are concerned. The Gayacao case conceded the power of the provincial Courts of First Instance to take cognizance of cases involving judicial review of administrative decisions, where the sole issue before the Court, is "whether the decision of respondent public officials was legally correct or not"; but it clearly reaffirmed the non jurisdiction rulings previously cited where writs of injunction are issued or sought in order to control acts of non-resident officials. This Court said in the Gayacao case:

"The doctrines invoked in support of the theory of non jurisdiction (Castaño vs. Lobingier, 7 Phil. 91; Acosta vs. Alvendia, G.R. No. L-14598, October 31, 1960; Samar Mining vs. Arnado, G.R. No. 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 respondents involved. Here the sole point in issue is whether the decision of the respondent public officers was legally correct or not." (Emphasis supplied).

Since the petition before the respondent Court of First Instance of Isabela not only questioned the legal correctness of the decision of the Office of the President, in splitting the forest concession between both contending logging companies, but also sought to enjoin enforcement of that decision, it is evident that even under the Gayacao ruling, the respondent Court could not validly issue the writ of injunction complained of when the officials sought to be restrained were not stationed within its territory.

The real issue before the Court below was the correctness of the ultimate decision reached by the respondent Executive Secretary, and jurisdiction to restrain its implementation was not conferred by the accidental location of the forest land in dispute within the province of Isabela.

Even conceding, *ad arguendo*, that the respondent Isabela Court possessed jurisdiction to issue a writ of injunction against the herein petitioner national officials, still its issuance *ex parte* constituted an improvident and abusive exercise of that jurisdiction, warranting our setting it aside. The reasons are plain.

1) The petition of the Palanan Logging Enterprises, Inc. in the Court below asked it to review and annul a decision regularly reached by competent executive officials, in a matter within their jurisdiction. Such a decision carries with it a presumption of regularity and validity that is not to be lightly brushed aside without giving a previous hearing to the deciding functionaries, out of the deference and courtesy due to representatives of a coequal and coordinate department.

2) In the Court below, respondent Palanan Logging Enterprises, Inc., merely charged that (Petition, par. 11) -?

"11. The order of the then Director of Forestry Mateo Pecson (Annex "B") which was affirmed by the Office of the President (Annex "E") although the same is illegal, arbitrary and null and void for having been rendered with gross abuse of discretion amounting to a lack of jurisdiction and/or without jurisdiction, is threatened to be enforced by respondents Director of Forestry and District Forester of Isabela as shown in a letter to your petitioner dated July 23, 1965, true copy of which is hereto attached and marked as Annex 'G' hereof."

which is a mere conclusion, without alleging facts to support the same.

3) The said petition of Palanan Logging assails the financial capacity of its rival Palanan Lumber a Plywood Co., Inc., contrary to the conclusions on their comparative ability reached by then Secretary of Justice, and concurrently Executive Secretary, Hon. Salvador Marino, in his executive decision of November 12, 1964 (Annex "B" of Petition in this Court). It is a well settled principle that findings of fact of executive officials in matters within their jurisdiction are not subject to review or modification by the Court, in the absence of arbitrariness of grave abuse of discretion.[2]

"x x x. The invariable rule set by this Court in reviewing administrative decisions of the Executive branch of the Government is that findings of fact made therein must be respected, so long as they are supported by substantial evidence, even if not overwhelming or preponderant (*Ang Tibay vs. CIR*, 69 Phil. 635); that it is not for the reviewing court to weigh the conflicting evidence, determine the credibility of the witnesses, or otherwise substitute its own judgment for that of the administrative agency on the sufficiency of the evidence (*Lao Tang Bun vs. Fabre*, 81 Phil. 682); that the administrative decision in matters within the executive jurisdiction can only be set aside on proof of gross abuse of discretion, fraud, or error of law (*Lovina vs. Moreno*, G.R. No. L-17821, Nov. 29, 1962)." (*Timbancaya vs. Vicente, et al.*, G.R. No. L-19100, 27 Dec. 1963).

Abuse of discretion, is of course, not proved by mere charges to that effect made by an interested party in his complaint or plead-ing, but must be duly demonstrated by competent evidence at a proper hearing or trial, which in the case now before us has not yet been held.

4) On the face of the petition, the action taken by the Executive Secretary, in deciding to split a vast forest area equally between the two contesting applicants for logging concessions, has been declared by this Court, in a similar case, to be in accord with the fundamental policy that "natural resources should be opened to the exploitation by as many qualified applicants as possible in order to disperse in the most equitable manner the rich bounties of our natural resources and thereby prevent the concentration of wealth in the hands of a few." (*Extensive Enterprises Corp. vs. Sarbro & Co., Inc.*, G.R. No. L-22386, May 16, 1966; 17 SC Rep. Annot. 51).

What aggravates the action taken by the respondent Court is that it failed to act on petitioners' motion for reconsideration dated May 25, 1966, until January 1967 when this case was filed, i. e. for over six months.

As the respondent Court of First Instance had no jurisdiction to control the actions of the petitioner national officials who are outside its districts; the petition filed in said Court by Palanan Logging Enterprises not containing averments of fact sufficient to constitute a cause of action, and the preliminary injunction having been issued ex parte, in abuse of discretion, we are forced to conclude that a writ of certiorari lies to annul the actuations complained of.

It is not amiss to recall here that time and again³ this Court has had occasion to deplore the readiness of some judges to grant and issue injunctions ex parte against acts of public functionaries, ignoring the presumption of regularity and validity of official actuations, in disregard of the deference and courtesy due to a co-ordinate branch of the government, and with no other guide than the far from impartial assertions in pleadings of interested parties, which a summary hearing would have shown to be either dubious or unfounded. The result has been that all too often, the public interest has been prejudiced through unnecessary delays. It bears repeating here that preliminary in-junctions remain extraordinary remedies that should be dispensed with circumspection, and that both sides should be first heard whenever possible.

WHEREFORE, the writ prayed for is hereby granted and the respondent Court prohibited from taking cognizance of civil case No. 1821 of the Court of First Instance of Isabela. The preliminary injunction heretofore issued by this Supreme Court is hereby made permanent. Costs against respondent Palanan Logging Enterprises, Inc.

SO ORDERED.

Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, and Angeles, JJ., concur.
Fernando, J., concurs fully in the opinion and adds a few words on the question of jurisdiction.

[1] *Castaño vs. Lobingier*, 7 Phil. 91; *Acosta vs. Alvendia*, G.R. No. L-14598, October 31, 1960; *Samar Mining*

vs. Arnado, G.R. No. L-17109, June 30, 1961; Alhambra Cigar vs. Regional Office No. 2, G.R. No. L-20491, August 31, 1965.

[2] Pajo vs. Ago et al., G.R. No. L-15414, June 30, 1960; Commissioner of Customs vs. Valencia, 100 Phil. 165; Timbancaya vs. Vicente et al., G.R. No. L-19100, 27 December 1963.

3 Suarez vs. Hon. Andres Reyes, et al., G.R. No. L-19828, Feb. 28, 1963; Commissioner of Immigration vs. Hon. Gaudencio Cloribel, et al., G.R. No. L-23838, Dec. 28, 1964; The Chief of the Philippine Constabulary vs. The Judge of the Court of First Instance of Rizal, G.R. Nos. L-22308, L-22343, March 31, 1964; Hon. Martiniano P. Vivo v. Hon. Gaudencio Cloribel, G. R. No. L-23239, Nov. 23, 1966; Vda. de Villanueva vs. Ortiz, G.R. No. L-11412, May 28, 1958; and Coloso vs. Board of Accountancy, G.R. No. L-5750, April 20, 1953 and the cases cited therein.

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CONCURRING OPINION

FERNANDO, J.:

The opinion of the Court, distinguished as it is by a most meticulous appraisal of the relevant facts and a highly persuasive statement of the reasons in its support, merits full approval, which I give. Nonetheless, a few words on the jurisdiction of courts of first instance to inquire into the validity of acts of the Executive Secretary, discharging functions of a quasi-judicial character and issuing orders by authority of the President, may not be inappropriate.

As noted in the opinion: "The real issue before the Court below was the correctness of the ultimate decision reached by the respondent Executive Secretary, * * *." A paragraph earlier, it was accurately stated that the petition before the respondent Court of First Instance of Isabela "questioned the legal correctness of the decision of the Office of the President, in splitting the forest concession between both contending logging companies, " * * *".

It is true that there is no specific statutory provision that ne-gates the power of the courts a first instance to pass upon the vali-dity of an order of the Executive Secretary under the above circums-tances. It is equally true, however, that they are without jurisdiction over several administrative agencies, of a much lesser rank than the Executive Secretary, acting by authority of the President. Mention may be made of the Public Service Commission,[1] the Securities and Exchange Commission,[2] Social Security Commission,[3] Patent Office, even a regional hearing officer of the Department of Labor.[4]

The absence of any statutory provision as to such exercise of jurisdiction in the case of the Executive Secretary, is not all that needs to be said. The principle that sustains such an obstacle to courts of first instance possessing such competence, in the case of the above administrative agencies, more than suffices to require that a court of higher category be vested with the attribute to perform the highly delicate task of overturning what in effect is a Presidential decision on a matter where no factual considerations ordinarily intrude. Respect for a coordinate branch reinforced by the tradi-tional courtesy that marks inter-departmental relations, to my mind, calls for

legislation of such character, assuming that on such a delicate matter judicial legislation cannot supply what is undeniably a glaring omission.

[1] Sec. 35. Comm. Act No. 146 as amended; Iloilo Commercial and Ice Co. v. Public Service Commission (1931) 56 Phil. 28; Regalado v. Provincial Constabulary, G.R. No. L-15674, Nov. 29, 1961.

[2] Sec. 35, Com. Act No. 83 as amended; Afag Veterans Corps v. Pineda, G.R. No. L-17159, Nov. 23, 1965.

[3] Secs. 5(a) and (c), Republic Act No. 1161; Poblete Construct-ion v. Social Security Commission, G.R. No. L-17605, Jan. 22, 1964.

[4] Layag v. Gerardo, G.R. No. L-19896, April 30, 1964.

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