

**DAYLINDA A. LAGUA, MANUEL P. LAGUA, HONORATO ACHANZAR
AND RESTITUTO DONGA, PETITIONERS, VS. HONORABLE VICENTE N.
CUSI, JR., IN HIS CAPACITY AS PRESIDING JUDGE OF THE COURT OF
FI...**

G.R. No. L-44649. April 15, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This petition for mandamus originated from a complaint for damages which was instituted by the petitioners against the private respondents for closing a logging road without authority.

In their complaint, the petitioners, alleged, among others:

In Paragraph 5(a):

"a) On 1 January 1976, Atty. Ernesto Nombrado, legal counsel for defendants, issued a memorandum to the Chief Security Guard of Defendant Eastcoast directing the latter to prevent the passage of Plaintiff Laguas' hauling trucks loaded with logs for the Japanese vessel (there were no other trucks hauling logs at that time) on the national highway loading towards where the vessel was berthed. In compliance with this directive, the security force of Defendant Eastcoast closed the road to the use by plaintiffs trucks and other equipments and effectively prevented their passage thereof while the vehicles and trucks of other people were curiously not disturbed and were allowed passage on the same road. It resulted that the loading of logs on the M/S 'Kyofuku Maru' was discontinued. A xeroxed copy of this Nombrado memorandum, the original of which is however in the possession of defendants, is hereto attached as Annex 'C' and made an integral part hereof."

In Paragraph 5(b):

"b) Upon representations made to Indalecio L. Aspiras, Acting Station Officer?in-Charge, BFD Lambajon Forest Station, and in response to plaintiff Laguas' complaint, a letter dated 2 January 1976 was addressed by Aspiras to the Resident Manager of Defendant Eastcoast with instructions to open and allow Plaintiff Laguas' trucks and machineries to pass that road closed to them (but not to others) by Defendant Eastcoast. A xeroxed copy of this letter is hereto attached as Annex 'D' and made a part hereof. Accordingly, Sagrado Constantino, Resident Manager of Defendant Eastcoast, issued an order to their Chief Security Guard for the latter to comply with the Aspiras letter. These events, however, took the whole day of 2 January 1976 so that notwithstanding the lifting of the road closure no hauling of logs could be made by Plaintiff Laguas on that day."

In Paragraph 5(c):

"c) When Plaintiffs Laguas were already resuming the hauling operations of their logs towards the Japanese Vessel on 3 January 1976, again that same road, only the day before ordered by the BFD to be opened for use and passage by plaintiffs, was closed to them by Defendant Eastcoast's security men upon a radio message order of Defendant Maglana. Even the vessel M/S 'Kyofuku Maru' was ordered by Defendant Maglana to untie

her anchor contrary to existing laws, rules and regulations of the Bureau of Customs and the Philippine Coastguard. A xeroxed copy of the Maglana message, the original of which is in the possession of the defendants, is hereto attached as Annex 'E' and made an integral part hereof."

And in paragraph 5(d):

"d) Given no recourse in the face of the blatant and illegal closure of the road in defiance of BFD orders to the contrary by the Defendant Eastcoast through the order of Defendant Maglana, Plaintiff Laguas had to depart posthaste to Mati, Davao Oriental, from Baganga where the shipment and the road closure were made, to seek the assistance of the PC Command thereat. Thus on 5 January 1976, Provincial Commander Alfonso Lumbao issued a directive to the PC Detachment Commander at Baganga to lift the illegal checkpoint made by defendants. A xeroxed copy of this directive is hereto attached as Annex 'F' and made a part hereof." (Rollo, pp. 57-58)

The private respondents filed a motion to dismiss on two grounds, namely: (1) lack of jurisdiction, and (2) lack of cause of action.

The private respondents contended that as the acts complained of by the petitioners arose out of the legitimate exercise of respondent Eastcoast Development Enterprises, Inc., 's rights as a timber licensee, more particularly in the use of its logging roads, therefore, the resolution of this question is properly and legally within the Bureau of Forest Development, citing as authority Presidential Decree (P.D.) No. 705. The private respondents also argued that petitioner Daylinda Laguas has no capacity to sue as her name was not registered as an "agent" or "dealer" of logs in the Bureau of Forestry.

On August 3, 1976, the trial court issued the questioned order dismissing the petitioners' complaint on the basis of the abovementioned grounds. It ruled:

"The Court agrees with the defendants that under the law, the Bureau of Forest Development has the exclusive power to regulate the use of logging roads and to determine whether their use is in violation of laws. Since the damages claimed to have been sustained by the plaintiffs arose from the alleged illegal closure of a logging road - in the language of the defendants on page 3 of their motion to dismiss, 'The simple fact is there was an illegal closure of the national highway affecting the private rights of the plaintiffs who sustained damages and losses as a consequence thereof' - the question whether or not the road was illegally closed must first be determined by the Bureau of Forest Development. If the said Bureau finds that the road was illegally closed, an action for damages may be filed in Court. Otherwise, no civil action would prosper, for there would be no tortious act." (Rollo, pp. 58-59).

xxx xxx xxx

"After the logging road was closed for the first time, more so after the second time, by the defendant Eastcoast Development Enterprises, Inc., the plaintiffs should have asked the Bureau of Forest Development to determine the legality or illegality of the closure since they wanted to file, as they did file, an action for damages based on the alleged illegal closure. The fact that the letter of January 2, 1976, directed defendant Eastcoast Development Enterprises, Inc. to open the road does not necessarily mean that the Bureau of Forest Development had found that the closure was illegal. There must be a positive finding that the closure was illegal." xxxx (Rollo, p. 60)

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"As an attorney-in-fact, Daylinda A. Lagua is not entitled to, and cannot claim, damages in her personal capacity. For she could not have sustained damages as a result of the alleged illegal closure of the road in her personal capacity while acting in her representative capacity. So if she and her husband sustained damages, it must have been because their legal rights were violated by a tortious act committed by the defendants other than the alleged illegal closure of the road. But as stated elsewhere in this order, even the plaintiffs admit that

the damages they claimed to have sustained arose from the alleged illegal closure of the logging road. Assuming, however, that another tortious act violated the legal right of the Laguas, still they could not join Achanzar and Donga in this complaint for there would be misjoinder of parties. (Rollo, pp. 61-62)

Hence, this petition for mandamus which we will treat as a petition for certiorari in the interest of justice.

The petitioners maintain that since their action is for damages, the regular courts have jurisdiction over the same. According to them, the respondent court had no basis for holding that the Bureau of Forestry Development must first determine that the closure of a logging road is legal or illegal before an action for damages can be instituted.

We agree.

P.D. No. 705 upon which the respondent court based its order does not vest any power in the Bureau of Forest Development to determine whether or not the closure of a logging road is legal or illegal and to make such determination a pre-requisite before an action for damages may be maintained. Moreover, the complaint instituted by the petitioners is clearly for damages based on the alleged illegal closure of the logging road. Whether or not such closure was illegal is a matter to be established on the part of the petitioners and a matter to be disproved by the private respondents. This should appropriately be threshed out in a judicial proceeding. It is beyond the power and authority of the Bureau of Forest Development to determine the unlawful closure of a passage way, much less award or deny the payment of damages based on such closure. Not every activity inside a forest area is subject to the jurisdiction of the Bureau of Forest Development. As we have held in *Ateneo de Manila University v. Court of Appeals* (145 SCRA 100, 110):

"The issue in this court was whether or not the private respondents can recover damages as a result of the dismissal of their son from the petitioner university. This is a purely legal question and nothing of an administrative nature is to or can be done (*Gonzales v. Hechanova*, 9 SCRA 230; *Tapales v. University of the Philippines*, 7 SCRA 553; *Limoico v. Board of Administrators*. (PJA) 133 SCRA 43; *Malabanan v. Ramonte*, 129 SCRA 359). The case was brought pursuant to the law on damages provided in the Civil Code. The jurisdiction to try the case belongs to the civil courts."

The private respondents, in their memorandum filed with the respondent court, alleged that the logs of petitioner Achanzar were cut down and removed outside of the area granted to the latter under his Private Timber License No. 2 and therefore inside the concession area of respondent company's Timber License Agreement. This, apparently, was the reason why the respondent company denied to the petitioners the use of the logging road. If we hold the respondents to their contention that the Bureau of Forest Development has the power and authority not only to regulate the use or blockade of logging roads but also to exclusively determine the legality of a closure of such roads, why then did they take it upon themselves to initially close the disputed logging road before taking up the matter with the Bureau and why did they close it again notwithstanding the Bureau's order to open it after the petitioners had duly informed the said Bureau of the closure? To use the Bureau's authority which the respondents ignored to now defeat the court's jurisdiction would be totally unacceptable. We, therefore, find that the trial court committed grave abuse of discretion in dismissing the complaint on the ground of lack of jurisdiction over the subject matter.

Anent the legal capacity to sue of the petitioners, spouses Laguas, we affirm the trial court's ruling that since they were mere agents of petitioners Achanzar and Donga and were suing in their own behalf, they did not have the capacity to sue for damages. They are not the real parties in interest. However, the complaint can still be maintained. It cannot be dismissed because the real parties in interest, Achanzar and Donga were also plaintiffs. Thus, the trial court should have ordered only the dropping of the names of the spouses Laguas pursuant to Section 11, Rule 3 of the Revised Rules of Court but not the dismissal of the complaint.

WHEREFORE, in view of the foregoing, the petition is hereby GRANTED. The questioned order of the respondent court is SET ASIDE and this case is ordered remanded to the court of origin for trial on the merits.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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