

THE CHIEF OF STAFF, AFP; COMMANDING GENERAL, FIRST INFANTRY DIVISION, PA; AND COMMANDING OFFICER, TASK FORCE "PRESERVE", PETITIONERS, VS. HON. TEOFILO GUADIZ, JR., AS JUDGE OF T...

G.R. No. L-35007. December 29, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition for certiorari and prohibition with a prayer for the issuance of preliminary injunction filed on April 26, 1972 by the Chief of Staff, AFP; Commanding General, First Infantry Division, PA; and Commanding Officer, Task Force "Preserve" against Hon. Teofilo Guadiz, Jr., as Judge of the Court of First Instance (Fifth Branch) of Nueva Ecija; and Diosamer Development Corporation, represented by its General Manager, Minor B. Bote, seeking the following reliefs:

"WHEREFORE, petitioners respectfully pray the Honorable Supreme Court that:

(a) Pending consideration of this petition on its merits, it issue a writ of preliminary injunction, ex-parte and without bond restraining respondent Judge Teofilo Guadiz, Jr., his successor in office or any one acting in his place and any other Judge or Court inferior to the Supreme Court, from executing, enforcing or implementing the restraining order dated January 27, 1972, the clarificatory restraining order dated February 11, 1972 and the Order of April 6, 1972.

(b) And after due proceedings, to render judgment declaring void the Orders dated January 27, 1972, February 11, 1972 and April 6, 1972, respectively, with costs against the respondent herein, except the Judge.

(c) Petitioners likewise pray this Honorable Court for such other or further relief as may be deemed just and equitable in the premises.

"Manila, Philippines, April 17, 1972." [1]

In a Resolution of April 27, 1972, this Court resolved, without giving due course to the petition, to require the respondents to comment thereon, within ten (10) days from notice thereof and to issue a temporary restraining order. [2]

The temporary restraining order enjoined the respondent Judge and his agents from implementing or enforcing his orders dated January 27, 1972, February 11, 1972 and April 6, 1972, all issued in Civil Case No. 644 entitled "Diosamer Development Corporation, Plaintiff versus Chief of Staff, AFP, et al., Defendants" of the Court of First Instance of Nueva Ecija, Branch V, Gapan and enjoined the respondent Corporation and its successors, from carrying out, executing and/or enforcing the abovementioned orders. [3]

In a Resolution of June 5, 1972, this Court gave due course to the petition. [4]

The respondent, Diosamer Development Corporation, filed a complaint dated January 24, 1972 docketed as Civil

Case No. 644 in the Court of First Instance of Nueva Ecija, Branch V, Gapan against the Chief of Staff, AFP; the Commanding General, First Infantry Division, PA; and Commanding Officer, Task Force "Preserve", seeking the following relief:

"WHEREFORE, it is respectfully prayed that:

"1. Pending hearing of the petition for the issuance of a preliminary injunction in this case, a temporary restraining order be issued by this Honorable Court enjoining the defendants, their agents, representatives and all persons claiming and/or working under them from stopping, preventing, molesting, driving, or threatening to stop, prevent, molest or drive the plaintiff, its agents, laborers, equipments, trucks, and men from passing through the Bignay and Sumandig-Alulag roads for its logging operations or allied activities even if said roads may, in some points, traverse the Fort Magsaysay Military Reservation;

"2. After due hearing of the petition for the issuance of a preliminary injunction and upon the filing of a bond in such amount as may be fixed and approved by this Honorable Court, to issue a preliminary injunction in this case of the tenor mentioned in paragraph No. 1 of these prayers;

"3. After hearing on the merits, to make the preliminary injunction permanent and/or ordering the defendants to issue the road-right-of-way to the plaintiff, with or without indemnity as the case may be; plaintiff is willing to pay indemnity if it will so be required;

"4. Such further and other reliefs just and equitable are likewise prayed for.

"5. Plus costs against the defendants.

"Mandaluyong, Rizal, for Gapan, Nueva Ecija, January 24, 1972."[5]

The respondent Judge issued an order dated January 27, 1972, the dispositive portion of which reads;

"WHEREFORE, for all the foregoing considerations, the petition for preliminary injunction is hereby set for hearing on February 9, 1972, at 9:00 o'clock in the morning, with notice to all parties. In the meantime, and upon posting by the plaintiff of a surety bond in the amount of TEN THOUSAND (P10,000.00) PESOS, which shall be answerable for whatever damage or injury which the defendants may sustain as a consequence of this order, the defendants and their agents, representatives, and all other persons acting in their behalf, are hereby temporarily restrained from preventing, stopping, molesting, or otherwise thwarting the plaintiff and its agents, representatives, laborers or workers, from cutting and removing the amount of logs authorized to be cut and removed from its licensed logging area, and from passing or otherwise using the 'Bignay' and 'Sumandig-Alulag' roads for the purpose.

"Let summons be issued and let the same and this order be served upon the defendants by Deputy Sheriff Benedicto P. Mateo of this Court.

"IT IS SO ORDERED.

"Gapan, Nueva Ecija, January 27, 1972.

'(SGD) TEOFILO GUADIZ, JR.
Judge[6]

The plaintiff in Civil Case No. 644, Diosamer Development Corporation, private respondent herein, filed an urgent motion dated February 11, 1972 asking for the clarification of the restraining order.[7] On the same date, the respondent Judge issued the following order:

"Acting upon the urgent motion dated February 11, 1972 filed by the plaintiff asking for a clarification about the duration of the effectivity of the temporary restraining order dated January 27, 1972 and of the area where

the plaintiff shall be allowed to conduct its logging operations and for the reasons stated therein which appear to be well founded, the Court hereby grants the same and so orders;

"That the restraining order dated January 27, 1972 shall continue to have force and effect until further order from the Court;

"That the area where the plaintiff shall be allowed to cut and remove logs is that licensed area (Annex "E") covered by the sketch, Annex 'B-1' of the Complaint as further described in the technical description, Annex 'B-2' of the complaint, notwithstanding the respective conflicting claims of the defendants and the plaintiff that said area is inside or outside the Fort Magsaysay Military reservation as the case may be.

"IT IS SO ORDERED.

"Gapan, Nueva Ecija, February 11, 1972."[8]

The petitioners' motion for reconsideration of the restraining order and the clarificatory order was denied in an order dated April 6, 1972 which also directed the issuance of a writ of preliminary injunction as prayed for in the verified complaint.

Hence this petition for certiorari and prohibition.

The records shows that the principal relief sought by Diosamer Development Corporation in Civil Case No. 644 was for a road-right-of-way through the Fort Magsaysay Military Reservation so that the plaintiff, and its laborers, equipments and trucks could pass through the "Bignay" and "Sumandig-Alulag" roads for its logging operation or allied activities even if said roads may, in some points, traverse the reservation. It appears that the respondent Judge issued the restraining order as well as the order clarifying said restraining order ex-parte without giving the petitioners a chance to oppose the applications therefor.

The respondent Judge acted with grave abuse of discretion amounting to lack of jurisdiction in clarifying the restraining order in the sense that the plaintiff, Diosamer Development Corporation, was allowed to cut and remove logs in its licensed area "notwithstanding the respective conflicting claims of the defendants and the plaintiff that said area is inside or outside the Fort Magsaysay Military reservation as the case may be". As a result, the Diosamer Development Corporation was allegedly able to cut timber within portions of the Fort Magsaysay Military Reservation. The clarificatory order went beyond what was prayed for in the complaint. All that the plaintiff was asking was to be allowed to pass through the areas of Fort Magsaysay Military Reservation traversed by the "Bignay" and "Sumandig-Alulag" roads. Indeed the clarificatory order has prejudged the conflict between the Diosamer Development Corporation and the petitioners on whether or not the licensed area of the said corporation included portions of the Fort Magsaysay Military Reservation. This amounted to a decision of the case on the merits in favor of Diosamer Development Corporation. Sound discretion is no license to frustrate the law by defeating its objectives.[9]

The order of April 6, 1972 perpetuated the grave abuse of discretion by denying the motion to set aside the order of January 27, 1972 and the order of February 11, 1972.

WHEREFORE, the petition for certiorari and prohibition is hereby GRANTED and the restraining order dated January 27, 1972, the clarificatory restraining order dated February 11, 1972 and the order dated April 6, 1972 are set aside, without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, and Melencio-Herrera, JJ., concur.

[1] Rollo, p. 22.

[2] Rollo, p. 139.

[3] Rollo, pp. 140-141.

[4] Rollo, pp. 143-144.

[5] Rollo, pp. 32-33.

[6] Rollo, pp. 37-38.

[7] Rollo, pp. 46-48.

[8] Rollo, p. 49.

[9] Commissioner of Customs v. Cloribel, et al., 19 SCRA 234-235.

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