

PICOP RESOURCES, INC., PETITIONER, VS. HON. AUGUSTUS L. CALO, PRESIDING JUDGE, RTC OF AGUSAN DEL NORTE AND BUTUAN CITY, 10TH JUDICIAL REGION, BRANCH 5, BUTUAN CITY, HON. VICTOR ...

G.R. No. 161798. October 20, 2004

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TINGA, J.:

Petitioner PICOP Resources, Inc. (PICOP) owns and operates a multi-billion peso pulp and paper manufacturing facility in Bislig City, Agusan del Norte. It holds government-issued Pulpwood and Timber License Agreement (PTLA) No. 47 and Integrated Forest Management Agreement (IFMA) No. 35 which gave petitioner the exclusive right to co-manage and develop with the State almost 130,000 hectares of forest land within the Agusan-Davao-Surigao Forest Reserve.

The Department of Environment and Natural Resources (DENR), through its officers, rendered three Memoranda, dated August 22, 1997,[1] February 16, 2001,[2] and April 6, 2001,[3] by virtue of which petitioner was designated a DENR depository and custodian for apprehended forest products and conveyances within its concession. On May 25, 2001, the Office of the CENRO-Bislig and petitioner entered into a Memorandum of Agreement (MOA) containing “Procedural Guidelines in the Conduct of Verification of Private Tree Plantation.”[4] The MOA provided, among others, that field validation/verification of applications for Certificates of Private Tree Ownership (CTPOs) shall be conducted jointly by the DENR, the local government unit concerned, and petitioner. Pursuant to these Memoranda, petitioner’s security personnel were deputized as DENR officers to apprehend and seize the tools, equipment and conveyance used in the commission of illegal logging and the forest products removed and possessed by the offenders.

In the course of the enforcement of the aforesaid Memoranda, petitioner PICOP, through its security personnel, had on numerous occasions apprehended within its concession and tree plantation area, violators who loaded the illegally cut trees in trucks and other forms of conveyance, such as carabaos, for transport out of the plantation area. These illegally cut forest products and conveyances were kept in PICOP’s impounding area.

On June 18, 2001, private respondents Eduardo Casia, Rogelio Castillo, Uldarico Casinginan, Eladio Galano, Catalino Virtudazo, Ricardo Balad-on, Joel Villareal, Tiburcio Impuerto, Hilario Fernandez, Andrea Vasquez, Spouses Remelito Codera and Marilyn Ranoso-Codera, and Florio Josafat, Jr., for himself and in representation, by way of a class suit, of the members of the UNITED FARMERS ASSOCIATION OF BISLIG (UFAB), filed a complaint for damages and injunction with prayer for issuance of writ of preliminary mandatory injunction before the Regional Trial Court (RTC), Branch 5, Agusan del Norte and Butuan City against the DENR Regional Office XIII (CARAGA) and/or its Regional Executive Director Elias C. Seraspi, Jr., Provincial Environment and Natural Resources Offices (PENRO) of Surigao del Sur, Agusan del Norte and Butuan City and/or their respective PENR Officers, Community Environment and Natural Resources Offices (CENRO) of San Francisco, Bunawan, Lianga and Bislig and/or their respective CENR Officers, and herein petitioner PICOP/Wilfredo D. Fuentes.[5]

Private respondents-complainants were some of those apprehended by PICOP’S security officers transporting

without any permit several hundred cubic meters of falcata logs allegedly grown in petitioner's plantation. The logs, trucks and other forms of conveyance on which they were carried were confiscated and kept in petitioner's impounding area. Private respondents alleged in their complaint that the Memoranda dated August 22, 1997, February 16, 2001 and April 6, 2001 and the MOA dated May 25, 2001 were illegal for having been issued with grave abuse of discretion. They sought to have the Memoranda declared null and void for this reason and also sought to restrain the DENR and all those acting for and in its behalf, including herein petitioner, from enforcing or implementing said Memoranda.

On September 21, 2001, the RTC rendered its Decision.[6] With regard to private respondent's allegation that the aforesaid Memoranda were illegally issued, the trial court disregarded the claim and sustained the validity of the Memoranda. The Memoranda were issuances of a duly-authorized government agency in the normal and regular course of its duty to enforce forestry laws and procedures. The RTC added that the application for the writ of preliminary injunction was the wrong remedy to assail the legality of the Memoranda, such an action being merely a collateral attack. Private respondents should instead have filed a petition to declare the Memoranda null and void. However, the trial court granted private respondent's prayer for preliminary mandatory injunction. It noted that administrative or criminal cases had been filed against private respondents involving the apprehended conveyances. The RTC ordered RED Elias R. Seraspio, Jr. to recall, withdraw and abrogate the enforcement of the assailed Memorandum dated February 16, 2001 and commanded all those acting pursuant to said Memorandum to refrain and desist from implementing the Memorandum. Petitioner was also ordered to release the confiscated falcata logs and vehicles to the owners thereof, or to the CENRO-Bislig or the Office of the Government Prosecution-Surigao del Sur, where the administrative and criminal proceedings were ongoing.[7]

Petitioner moved for reconsideration but this was denied for lack of merit on October 17, 2001.[8]

On January 21, 2002, DENR-Region XIII RED Benjamin T. Tumaliuan issued a Memorandum revoking the February 16, 2001 Memorandum issued by former OIC-RED Constancio A. Paye, Jr.[9]

On April 29, 2002, petitioner filed a petition for certiorari with prayer for issuance of a temporary restraining order and/or writ of injunction before the Court of Appeals. The petition was dismissed for lack of merit on July 23, 2003.[10] The appellate court held there was no grave abuse of discretion when the RTC issued the assailed Decision and Resolution. Petitioner had no right or interest to protect in the confiscated forest products and conveyances. Petitioner's compound was used only as a depository for the confiscated logs and conveyances by virtue of the Memorandum dated February 16, 2001. Neither did petitioner claim ownership of the confiscated conveyances. While it claimed that some of the confiscated forest products may have come from its concession area, petitioner admitted that the ownership of the confiscated products was still to be determined in the cases pending either at the CENRO-Bislig or at the Office of the Government Prosecution-Surigao del Sur. Hence, petitioner's interest in the confiscated forest products was merely contingent and cannot be material as contemplated under Section 2, Rule 3 of the Revised Rules of Civil Procedure. Necessarily therefore, petitioner had no basis to bring the action against respondents and it was not entitled to the ancillary remedy of a writ of preliminary injunction.

On August 15, 2003, petitioner filed a Motion for Reconsideration but this was denied in the Resolution of January 16, 2004.[11]

Petitioner then filed this petition for review.

Petitioner argues that it is a proper party-in-interest, vested with a material interest in the outcome of the case. It allegedly has more than just a contingent interest in the outcome of the dispute.

Petitioner contend that private respondents' intrusion was in violation of petitioner's PTLA No. 47 and IFMA No. 35. These license agreements gave petitioner the exclusive right to co-manage and develop forest lands, and recognized petitioner as owner of the trees and other products in the concession area.[12] In filing this petition, petitioner is merely defending its subsisting proprietary interest pursuant to these license agreements.

Public respondents never refuted petitioner PICOP's allegation that private respondents were apprehended by the DENR-deputized PICOP guards at its checkpoint within PICOP's concession area. Private respondents also never denied that PICOP's guards had been deputized as DENR officers to enforce the Memoranda. Petitioner was therefore within its rights in exercising control over its concession area pursuant to its duty as DENR depository.

Petitioner also argues that the RTC intruded upon the primary jurisdiction of the DENR when it took cognizance of private respondents' complaint for damages and issued the writ of injunction. Petitioner invokes DENR Department Administrative Order (DAO) No. 97-32[13] in asserting that it has the obligation to keep custody of the apprehended forest products, tools and conveyances, the disposal of which rests solely on the DENR.

The RTC also allegedly committed grave abuse of discretion in granting private respondents' prayer for issuance of injunction in violation of the doctrine of exhaustion of administrative remedies. Petitioner argues that private respondents should have awaited the results of the administrative procedure for summary administrative apprehensions and seizures of the DENR under Sections 5 and 6 of DAO No. 97-32, instead of filing the complaint before the trial court. This would have allegedly allowed the proper administrative officer to ascertain whether a prima facie case lies against the offenders and whether the apprehended articles should answer for the offense. By issuing the assailed writ of injunction, the trial court arrogated unto itself the power to rule on the rightful possession of the subject conveyances.

Petitioner also contends that the injunctive writ was issued without due process of law since the transfer of custody of the forest products and conveyances was not even sought by private respondents in their complaint. Consequently, the matter of the return of the seized conveyances was never ventilated during the hearing and the issuance of the writ not sought for violates the rules of due process.

Petitioner's arguments do not convince us. The petition should be denied.

It is clear that petitioner has no material interest to protect in the confiscated forest products and conveyances. It has no subsisting proprietary interest, as borne out by its licensing agreements, which need to be protected by annulling the writ of injunction issued by the trial court. As observed by the Court of Appeals, any interest petitioner has in the confiscated properties is dependent on the outcome of the proceedings before the CENRO-Bislig and the Office of the Government Prosecution-Surigao del Sur. The issue of ownership and possession of the confiscated products still has to be determined in those proceedings. Petitioner had not refuted this.

Petitioner also cannot claim the right to retain custody of the apprehended logs and conveyances by virtue of its being designated a depository of the DENR pursuant to the assailed Memoranda. As such depository, petitioner merely holds the confiscated products and conveyances in custody for the DENR while the administrative or criminal proceedings regarding said products are pending.

The trial court noted that the confiscated vehicles were already subject of administrative proceedings before the CENRO-Bislig and criminal complaints before the Office of the Government Prosecution-Surigao del Sur. There were also letters or notices to petitioner from officers of the CENRO and the Office of the Government Prosecution requesting the release of some of the conveyances to their owners.[14] There is no reason for petitioner to refuse to hand over possession of the vehicles and forest products since, being confiscated items, they

will have to be handed over to the proper government agencies for appropriate disposition proceedings.

Furthermore, the transfer of custody of the confiscated products and conveyances will not in any way place petitioner at a disadvantage. Petitioner is merely a depository and the release of the conveyances and products to the government agencies concerned has to be done but only in compliance with lawful court orders.

It should also be remembered that the Memorandum dated February 16, 2001, which designated petitioner as a DENR depository, had been revoked by the Memorandum of January 21, 2002. As of the filing of the petition for review before this Court on March 11, 2004, petitioner no longer had any right, as a depository, to retain possession of the conveyances.

All the foregoing considered, petitioner's contention that the trial court violated the doctrines of primary jurisdiction and exhaustion of administrative remedies should also fail. The transfer of custody of the confiscated products to the CENRO and the Office of the Government Prosecution was for the purpose of resolving the cases with dispatch.

WHEREFORE, in view of the foregoing, the Petition for Review is DENIED.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Issued by Regional Executive Director (RED) Elias C. Seraspi, Jr., and having for its subject, "Conduct of Joint DENR/PRI Evaluation/Verification of Plantation Species in A & D Lands Within and Adjacent to the Concession of PRI Prior to the Issuance of Cutting Permits, CVCs and Transport Documents." The Memorandum directed PRI representatives to actively participate in the monitoring of forest products that pass through the monitoring stations; Rollo, p. 118-119.

[2] Issued by Officer-In-Charge Regional Executive Director (OIC-RED) Constancio A. Paye, Jr., and having for its subject, "Depository Area for Apprehended/Confiscated Forest Products and Conveyance Within CENRO Bislig City." In said Memorandum, OIC-RED Paye, Jr. favorably considered the offer of PRI to provide a depository area within their compound for apprehended and confiscated forest products and conveyances at no cost to the DENR; Id. at 120.

[3] Issued by RED Seraspi, Jr., having for its subject the "Abuse of Self-Monitoring Forms (SMFs)," and providing that in CENROs of Bislig, Bunawan, San Francisco and Lianga, the Certificate of Private Tree Plantation Ownership (CTPO) shall be issued upon verification duly represented by PRI; Id. at 121.

[4] Id. at 122-127.

[5] Id. at 143-241.

[6] Penned by Acting Presiding Judge Victor A. Tomaneng; Id. at 242-263.

[7] Only the hauler trucks of private respondents Eduardo Casia and Ricardo Balad-on, and the three (3) carabaos of private respondents Joel Villareal, Tiburcio Impuerto and Hilario Fernandez were returned to their respective owners; Id. at 262-263 and 107-108.

[8] By Presiding Judge Augustus L. Calo; Id. at 264.

[9] CA Decision, Id. at 74.

[10] Penned by Associate Justice Eliezer R. de los Santos, concurred in by Associate Justices Romeo A. Brawner and Jose C. Mendoza of the Twelfth Division; Id. at 71-78.

[11] Promulgated January 16, 2004; Id. at 107-108.

[12] Petitioner argues that Sec. 34 of Presidential Decree No. 1559 provides that an IFMA holder is the owner of the trees planted in the concession area. Under DENRA Department Administrative Order (DAO) No. 2000-03, a Timber License Agreement (TLA) holder owns seventy percent (70%) of the trees planted inside a TLA area, with the government owning the other thirty percent (30%); Id. at 33.

[13] “1997 Rules for the Administrative Adjudication of Illegal Forest Products and the Machinery, Equipment, Tools and Conveyances Used In Connection Therewith;” Id. at 128-142.

[14] The Memorandum dated April 2, 2001 of OIC PECRO Adelfo R. Luengas, Jr. of Tandag, Surigao del Sur directed the CENRO of DENR R-13 D4, Bislig City, to release the conveyance registered to private respondent Eduardo Casia. Separate issuances from the Office of the Government Prosecution, a Resolution dated April 16, 2001 and an Order dated August 11, 2002, ordered release of private respondent Ricardo Balad-on’s hauler truck, and private respondents Joel Villareal, Tiburcio Impuerto and Hilarion Fernandez’ carabaos. Supra, note 7.

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