

**PAPER INDUSTRIES CORPORATION OF THE PHILIPPINES,
PETITIONER, VS. THE HONORABLE DEPUTY EXECUTIVE
SECRETARY, THE HONORABLE SECRETARY OF NATURAL
RESOURCES AND DAVAO MAHOGANY PRODUC...**

G.R. No. 79311. April 26, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for certiorari under Rule 65 of the Revised Rules of Court. Petitioner Paper Industries Corporation of the Philippines (PICOP) seeks the reversal of the Decision (pp. 33-38, Rollo) of then Deputy Executive Secretary Fulgencio S. Factoran, Jr. dismissing PICOP's appeal from the Decision (pp. 24-32, Rollo) of then Minister of Natural Resources Rodolfo del Rosario in MNR Case No. 6429 and the Resolution (p. 39, Rollo) of then Deputy Executive Secretary Catalino Macaraig, Jr., denying PICOP's Motion for Reconsideration.

The facts of the case are as follows:

On May 24, 1952, the government granted the Bislig Bay Lumber Company, Inc. (now petitioner PICOP) Timber License Agreement (TLA) No. 43 covering parcels of forest lands in Agusan and Surigao. The license was amended on April 26, 1953 (TLA No. 43-1) and on March 4, 1959 (TLA No. 43-2). It appears that sometime in 1960, the Bureau of Forestry headed by Artemio Genio established on the ground the boundary line (known as "Genio" line) of PICOP's concession area. In 1963, this line was monumented on the ground by the Land Classification (LC) Party No. 18 headed by Forester Narciso Kiocho. On June 30, 1969, the western boundary of PICOP's timber license agreement was amended in order to conform with the western boundary line established by the Bureau of Forestry as surveyed and monumented on the ground. The last amendment was reflected under PICOP's TLA No. 43-3.

Upon the request of the Board of Investments, then President Marcos issued on July 29, 1969 a warranty establishing the boundaries of PICOP's TLA as described under TLA No. 43, as amended (Annex "E" of Petition, p. 57, Rollo).

For its part, respondent Davao Mahogany Products, Incorporated (DMPI) acquired Ordinary Timber License (OTL) No. 2456, dated May 19, 1955 from its original grantee, Romualdo Repaso. The license was renewed 1960 under OTL No. 1122-60 and subsequently under OTL No. 499-51267. In 1967, the concession area of DMPI was consolidated with those of Agusan Mahogany Producers Company, Inc., the Umayan Timber Company and the Sanchez Logging Company under OTL No. 175-'71, in the name of DMPI. On September 17, 1984, OTL No. 175-'71 was converted to TLA No. 17 (p. 34, Rollo), covering a public forest area of 22,500 hectares (p. 62, Rollo).

PICOP's and DMPI's concession areas are adjacent up to each, other, with the eastern boundary of DMPI being common with the western boundary of PICOP.

In a letter dated December 2, 1983, PICOP complained to the Bureau of Forest Development against an alleged encroachment by DMPI into the former's concession area. It alleged that its western boundary is the line established by Forester Genio and affirmed by LC Party No. 18. The western boundary of PICOP was allegedly recognized by DMPI in a letter dated September 19, 1975 addressed to PICOP. DMPI disputed PICOP's allegations claiming that its common boundary with PICOP is the line described under its OTL No. 1122-'60 and PICOP's TLA No. 43-1 and not the latter's TLA No. 43-3.

In a decision rendered on November 4, 1985, the Ministry of Natural Resources (Ministry), through then Secretary Rodolfo del Rosario, found that PICOP's TLA No. 43-3 amended the western boundary of PICOP's concession area to conform with the (BFFR) "Genio" line. The Ministry found this amendment to be erroneous because it deprived its adjoining concession holder, the DMPI of an area to which it was entitled, without the latter having been afforded an opportunity to contest the change. The Ministry ruled that the change was contrary to the standards of due process and existing policy.

The Ministry likewise ruled that DMPI was not precluded from questioning the technical description of the western boundary under PICOP's TLA No. 43-3 despite the former's letter recognizing the latter's boundary. What DMPI recognized in its letter was PICOP's boundary under TLA No. 43-1 and not that described under TLA No. 43-3. The decision also ordered the correction and amendment of TLA No. 43-3 of PICOP so as to exclude the area contested from PICOP's license and to include the same area as part of DMPI's concession.

The dispositive portion of the Ministry's decision reads:

"WHEREFORE, this Office hereby declares and confirms that the true and correct common boundary line between the concession areas of Paper Industries Corporation of the Philippines (PICOP) and Davao Mahogany Products, Inc. (DMPI) are the lines embodied in the technical descriptions of Timber License Agreement No. 43-1 of PICOP and Ordinary Timber License No. 1122-'60 of DMPI.

"Conformably herewith, TLA No. 43-3 of PICOP shall be corrected/amended so as to exclude the contested area and, as thus excluded, shall be included in the concession area of DMPI to form part thereof under its Timber License Agreement No. 17.

"The moratorium Order dated 24 August 1984 of this Office is hereby lifted insofar as DMPI is concerned and PICOP is hereby directed to refrain from conducting logging operations within the area excluded from its TLA No. 43-3.

"The case records are hereby forwarded to the Administrator, Wood Industry Development Authority for implementation within thirty (30) days from receipt thereof.

"SO ORDERED." (pp. 31-32, Rollo)

PICOP appealed the Ministry's decision to the Office of the President assigning four (4) errors; 1) the Ministry's finding that there exists a boundary dispute; 2) the Ministry's failure to uphold the Presidential warranty on the boundary of PICOP; 3) the Ministry's failure to rule that DMPI was estopped to question its common boundary with PICOP; and 4) the Ministry's finding that TLA No. 17 was issued subject to the outcome of the case (p. 36, Rollo).

On November 24, 1986, the Office of the President, through then Deputy Executive Secretary Fulgencio S. Factoran, Jr., dismissed the appeal. PICOP's Motion for Reconsideration was denied on June 17, 1987 by then Deputy Executive Secretary Catalino Macaraig, Jr. (p. 39, Rollo).

Hence, the instant petition with a prayer for a temporary restraining order.

On August 24, 1987, We issued a temporary restraining order enjoining respondents from enforcing the decision dated November 4, 1985 in MNR Case No. 6429 (p. 82, Rollo).

It is the contention of PICOP that respondent Deputy Executive Secretary gravely abused his discretion in affirming the findings of then Secretary del Rosario that the true and correct boundary lines between the concession areas of PICOP and DMPI are the lines embodied in the technical descriptions of TLA 43-1 of PICOP and OTL No. 1122-60 of DMPI. It also assails the order for the correction of its TLA No. 43-3 so as to exclude therefrom the area contested by DMPI which area shall be included in the concession of DMPI to form part of the latter's TLA No. 17.

The petition is not meritorious.

After going over the records of this case, We find that public respondents did not commit any grave abuse of discretion and acted within their jurisdiction when they issued the questioned decisions and resolution.

As pointed out by public respondents, the true and correct boundaries of PICOP and DMPI are the lines embodied in the technical descriptions of PICOP's TLA No. 43-1 and not those embodied in TLA 43-3. The adjustment contained in TLA 43-3 moved PICOP's boundary 2,160 meters further west of its original boundary into DMPI's eastern boundary resulting in the diminution of DMPI's concession area to about 2,058 hectares. This act was accomplished without notice to the adjoining concessionaire, DMPI.

The Presidential warranty issued on July 29, 1969 on the boundaries of PICOP's concession could not have referred to TLA No. 43-3 because the total area warranted thereunder referred only to 121,587 hectares of permanent forest lands and 21,580 hectares of alienable and disposable lands. This area was the original area covered by TLA 43, 43-1 and 43-2, and not the area covered under TLA 43-3 which, as found by the Minister of Natural Resources exceeded PICOP's authorized total concession area by 2,058 hectares (p. 6, Decision of the Minister of Natural Resources, p. 29, Rollo).

It is not correct, as PICOP alleged, that DMPI had always recognized the (BFFR) "Genio" line as their common boundary. DMPI's letter of September 29, 1975 confirming its recognition of PICOP's boundary referred to TLA No. 43-1 and not TLA NO. 43-3. This is very clear in the text of DMPI's letter to PICOP when the dispute regarding their boundaries arose (p. 59, Rollo).

"September 29, 1975

"Paper Industries Corporation

of the Philippines

JMT Building, Ayala Avenue

Makati, Rizal

Gentlemen:

This has reference to the discussions I had with your Atty. B. G. Alvizo concerning the common boundary of O.T. No. 118-57 of Davao Mahogany Products, Inc., ('DMPI') and of T.L.A. No. 43-1 of Bislig Bay Lumber Co., Inc., now PICOP.

I confirm that DMPI recognizes, as it hereby recognizes, the boundary described in the Warranty of T.L.A. No. 43-1 to be the true and correct common boundary of T.L.A. No. 43-1 of PICOP and O.T. No. 118-57 of DMPI.

xxx xxx xxx

Very truly yours,

DAVAO MAHONY PRODUCTS, INC.

SIGNED

GUILLERMO R. SANCHEZ

Attorney-in-Fact"

It has been consistently held by Us that:

"x x x (I)n reviewing administrative decisions of the Executive branch of the Government, x x x the 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. C.I.R., 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. x x x." (Secretary for Legal Affairs, et al. v. CA, G.R. No. 76761, 9 January 1989; Ang Tibay v. CIR, 69 Phil. 635; Lao Tang Bun v. Fabre, 81 Phil. 682; Timbancaya v. Vicente, L-19100, Dec. 27, 1963, 9 SCRA 852)

Likewise,

"x x x, (I)n the case of Espinosa, et al. vs. Makalintal, et al. (79 Phil 134; 45 Off. Gazz. 712), we held that the powers granted to the Secretary of Agriculture and Commerce (Natural Resources) by law regarding the disposition of public lands such as granting of licenses, permits, leases and contracts or approving, rejecting, reinstating or cancelling applications or deciding conflicting applications, are all executive and administrative in nature. It is a well-recognized principle that purely administrative and discretionary functions may not be interfered with by the courts. In general, courts have no supervising power over the proceedings and actions of the administrative departments of the government. This is generally true with respect to acts involving the exercise of judgment or discretion, and findings of facts. x x x." (Lianga Bay Logging Co., Inc. V. Lopez Enage, L-30637, July 16, 1987, 152 SCRA 91)

Public respondents Minister of Natural Resources and Deputy Executive Secretary, the latter acting for and in behalf and with the authority of the President, did not abuse their discretion when they ordered the amendment or correction of petitioner's TLA No. 43-3. After finding that there was an unauthorized increase in the concession area of PICOP, the correction of its license was a necessary consequence.

The allegation by petitioner that DMPI had no valid Timber License Agreement at the time the proceedings in this case was commenced by PICOP's filing with the Bureau of Forest Development a complaint against DMPI for encroachment and illegal logging activities is not entirely correct. It is noted, as held by respondent Executive Secretary, that DMPI's license before its concession was consolidated with that of three (3) other concessionaires, was OTL No. 1122-'60. When DMPI's concession was consolidated with those of three (3) others, the government issued OTL No. 175-71 in the name of DMPI. While DMPI's OTL No 175-71 was set to expire on September 30, 1983, it already had a pending application for a Timber License Agreement. The application was granted on September 14, 1984 under TLA No. 17 and will expire on July 31, 1994. There was, in effect, a continuity in the license granted to DMPI. In the words of respondent Deputy Executive Secretary, "DMPI's timber license did not terminate upon the expiration of OTL 1122-'60. It's license subsisted until TLA No. 17 was executed" (p. 36, Rollo). This effect is recognized under the Administrative Code of 1987 which provides in its Section 18, Book VII, Chapter 11; "Sec. 18. Non-Expiration of License. - Where the licensee has made timely and sufficient application for the renewal of a license with reference to any activity of a continuing nature, the existing license shall not expire until the application shall have been finally determined by the agency."

Even granting that DMPI's license expired and was terminated on September 30, 1983, this fact did not grant PICOP any vested right over the portion which it erroneously included in its amended license.

ACCORDINGLY, the petition is DISMISSED. The decision of public respondent Deputy Executive Secretary dated November 24, 1986 affirming the decision of Rodolfo del Rosario, then Minister of Natural Resources dated November 4, 1985 in MNR Case No. 6429 is AFFIRMED. The temporary restraining order issued by this Court on August 24, 1987 is LIFTED.

Narvasa, (Chairman), Gancayco, and Grino-Aquino, JJ., concur.
Cruz, J., no part, related to petitioner's counsel.

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