

**STA. INES MELALE FOREST PRODUCTS CORPORATION, PETITIONER,
VS. HON. CATALINO MACARAIG, JR., EXECUTIVE SECRETARY,
OFFICE OF THE PRESIDENT; HON. SAMILO N. BARLONGAY, ACTING
DEPUTY ...**

G.R. No. 80849. December 02, 1998

Ponente: PUNO, J.

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PUNO, J.:

These consolidated petitions pertain to a boundary dispute between petitioner STA. INES MELALE FOREST PRODUCTS CORPORATION (hereafter referred to as Sta. Ines), and private respondents AGUSAN WOOD INDUSTRIES, INC. (hereafter referred to as Agwood) and KALILID WOOD INDUSTRIES, INC. (hereafter referred to as Kalilid). The complaints of Agwood and Kalilid that Sta. Ines had encroached on their timber license areas, were decided in their favor, in the first instance, by the Director of Forest Development[1]; on appeal[2], by the Minister of Natural Resources[3]; and on further appeal to the Office of the President[4], by the Deputy Executive Secretary, now the Executive Secretary[5] as well as by the Acting Deputy Executive Secretary.[6] Sta. Ines assails their decisions in G.R. No. 80849 on the ground of grave abuse of discretion.

On the other hand, in G.R. No. 81114, Sta. Ines prays for the annulment of the writ of attachment issued by respondent Judge Vicente A. Hidalgo of the Regional Trial Court of Agusan del Norte/Butuan City, Branch V. On the strength of that writ, the respondent Provincial Sheriff of Agusan del Norte/Butuan City levied upon 2,600 cubic meters of logs belonging to Sta. Ines as security for Kalilid's claim to P8 Million worth of logs felled and hauled by Sta. Ines from the area subject of their boundary dispute.

The facts are clear.

On July 28, 1967, the Department of Agriculture and Natural Resources issued Timber License Agreement (TLA) No. 51, including a Location Map with Technical Description[7], in the name of Sta. Ines. It covered forest areas in the municipalities of Loreto and Waloc, Agusan del Sur. TLA No. 51 expired on June 30, 1983.

About May, 1970, Land Classification Party No. 48 headed by Forester Jesus M. De la Cruz, conducted a location survey of the boundary line between Sta. Ines and Agwood, formerly D.O. Plaza Enterprises, Inc. (hereafter referred to as the De la Cruz survey). This line became the western boundary line of Sta. Ines and the eastern boundary line of Agwood. It was located from the junction of Mukilo and Umayam Rivers to the south bank of Bagul River.

On June 8, 1973, the Department of Agriculture and Natural Resources issued TLA No. 232 in the name of Kalilid covering forest areas in the municipalities of Talacogon and Comuta, Agusan del Sur. TLA No. 232 expired on June 30, 1982.

On December 12, 1973, the Department of Agriculture and Natural Resources issued TLA No. 197 in the name of Agwood covering forest areas in the municipalities of Loreto, Nueva Gracia, Sto. Tomas, Waloc, Johnston and

Comuta, Agusan del Sur. TLA No. 197 expired on June 30, 1998.

The timber license area of Kalilid is on the northern and northwestern boundary of Sta. Ines while that of Agwood is on its western boundary.[8]

Between 1973 and 1978, a team headed by Forester Roberto Bote conducted a location survey of the boundary lines of Kalilid (hereafter referred to as the Bote survey). Sta. Ines, as an adjacent concessionaire, was not represented in that survey.[9] Forester Bote ran the northern boundary of Sta. Ines at exactly 16,000 meters starting from its Corner 4 at the junction of Campayian and Tagacupan Rivers and ending at a point some 300 meters short of meeting the common boundary line of Sta. Ines and Agwood as established in the De la Cruz survey.

On March 10, 1978, Kalilid filed with the Office of the District Forester of the Bureau of Forest Development at Bayugan, Agusan del Sur, a letter-complaint alleging that Sta. Ines had been conducting logging operations in Parcel IV of its concession area.[10]

On February 21, 1979, Agwood filed with the same office its own letter-complaint against Sta. Ines. It alleged that Sta. Ines has been preparing six (6) logging set-ups within Corner 1 of the Agwood area.[11]

Both complaints involve that 300-meter gap between the common boundary line of Sta. Ines and Agwood as established by the De la Cruz survey and the point where the 16,000-meter northern boundary line of Sta. Ines ends stretching from the junction of Campayian and Tagacupan Rivers, as established by the Bote survey.

On June 5, 1979, Sta. Ines, Kalilid and Agwood executed a Memorandum of Agreement whereby they agreed to a re-running of their common boundary lines based on the Map with Technical Description annexed to TLA No. 51 of Sta. Ines. They agreed to honor the survey to be conducted by Timber Management Assistant (TMA) Quiliano L. Bayla (hereafter referred to as the Bayla survey), to determine the boundary line of their timber license areas, thus:

"WHEREAS, in view of the boundary conflict [among] the above mentioned licensed areas, we have agreed to re-run the boundary lines starting from the junction of Tagakupan and Kalampayan rivers identical to Corner 4 of Sta. Ines Melale Forest Products Corporation then due west with a distance of 16,000 meters to Corner 5; thence, due south as per technical description of Sta. Ines Forest Products Corporation.

"WHEREAS, the three (3) licensees concerned agreed that whatever be the outcome of the survey (re-running of boundary line based on the technical description of Sta. Ines Melale Forest Products Corp.) lead by TMA Quiliano L. Bayla will be the final boundary line.

"NOW, THEREFORE, in accordance with the aforestated agreement, Kalilid Wood Industries Corporation, Agusan Wood Industries, Inc. and Sta. Ines Melale Forest Products Corp. have agreed as they hereby agreed, to wit:

"1. To immediately conduct a relocation survey of the boundary line on the ground following the technical description of the approved licensed map of Sta. Ines Melale Forest Products Corporation (TLA No. 51);

"2. That the survey will start from the junction of Tagakupan and Kalampayan rivers which is identical to Corner 4 of Sta. Ines Melale Forest Products Corp. with a direction Due-West and a Distance of 16,000 meters; thence, Due-South up to the alleged encroachment;

"3. To use a precise surveying instrument in the survey;

"4. The three licensees concerned should be represented (authorized in writing) during the whole duration of the survey;

"5. That Sta. Ines Melale Forest Products Corp. should stop their felling operation within the [disputed] area, however, Sta. Ines Melale Forest Products Corporation is allowed to haul trees already felled to avoid deterioration; and

"6. That losing its commercial value the parties concerned should jointly shoulder the expenses incurred during the survey.

"IN WITNESS HEREOF, the parties hereto have hereunto signed these presents this 5th day of June, 1979 in the City of San Francisco, Agusan Sur, Philippines." [12] (Emphasis ours.)

On July 31, 1979, TMA Bayla submitted his Relocation Survey Report. It reads, thus:

"1. The undersigned together with Forester Reynaldo S. Aganap and Tree Marker Ruben M. Umbal, all of BFD, RIOD-4, San Francisco, Agusan del Sur, the authorized representatives of BFD, RIOD-3, Bayugan, Agusan del Sur, Kalilid Wood Industries Corp. (KWIC), Agusan Wood Industries, Inc. (AWII) and Sta. Ines Melale Forest Products Corp. (SIMFPC) re-run the boundary lines of the above-mentioned licensees starting from Corner 4 (identical to the junction of Tagacupan and Calampayan rivers) thence, due west to Corner 5 of Sta. Ines Melale Forest Products Corp. with a distance of 16,000.00 meters, thence, due south up to the operation of Sta. Ines Melale Forest Products Corp. contested by Agusan Wood Industries, Inc.;

"2. Our new established Corner 5 of Sta. Ines Melale Forest Products Corp. (index 488/81=489/1) is 89.40 meters further to a point marked 488/81-1 (identical to 82.50 meters distance following a due north direction to a Mayapis 80 cms. dbh which was chisiled [sic] P.B. de Jesus cor. 8 WU 380/116=1551/0=1552/1=488/81-2) and 290.10 meters following D-W direction to the claimed boundary line of Sta. Ines Melale Forest Products Corp. as per perimeter survey conducted by the undersigned and Forester Simon G. Enong last July 28 to August 8, 1978, or a total 379.50 meters;

"3. The distance of a due south boundary from the new established corner 5 of Sta. Ines Melale Forest Products Corp. to the present operation is 7,162.60 meters." [13] (Emphasis ours.)

On February 21, 1980, the Director of Forest Development decided the encroachment cases against Sta. Ines by issuing an Order [14] declaring the new boundary line established by TMA Bayla as the correct common boundary line between Sta. Ines and Kalilid insofar as the northern boundary of Sta. Ines and the southern boundary of Kalilid are concerned; and further, as the correct common boundary line of Sta. Ines, Kalilid and Agwood, insofar as the western boundary of Sta. Ines and the eastern boundaries of Kalilid and Agwood are concerned. The Order made the definitive finding that Sta. Ines has encroached into the license areas of Kalilid and Agwood. The Director of Forest Development directed Sta. Ines to pay for and/or turn over what remains of, the 8,231.22 cubic meters of timber cut and removed from the Kalilid area and the 9,802.50 cubic meters of timber also cut and removed from the Agwood area, all during the pendency of the encroachment cases.

On April 18, 1980, Sta. Ines appealed [15] to the Ministry of Natural Resources. In the appeal docketed as MNR Case No. 4608, Sta. Ines contended that the Bayla survey which set the distance of its northern boundary line at 16,000 meters, violated the Memorandum of Agreement dated June 5, 1979 which fixed said distance at around 16,000 meters more or less in accordance with the Map with Technical Description annexed to TLA No. 51. As a result, the 300-meter gap subject of the boundary dispute among Sta. Ines, Agwood and Kalilid was located within their boundary lines and made Sta. Ines guilty of encroachment.

On May 3, 1983, the Minister of Natural Resources issued a Decision [16] dismissing the appeal and affirming the Order of the Director of Forest Development. It held:

"x x x

"In the first place, appellant is bound to abide by the stipulations in the Memorandum of Agreement dated June

5, 1979 it entered into with Kalilid Wood Industries, Inc. and Agusan Wood Industries, Inc. It is clear from the terms of the agreement that the signatories thereto signified and expressed their conformity not only to the relocation survey to be undertaken by Timber Management Assistant Quiliano Bayla and to the establishment of the due west boundary line from appellant's corner with a distance of 16,000 meters to Corner 5 but also to the results of the survey conducted in consonance therewith. Appellant which was represented during the relocation survey of Quiliano Bayla, cannot dispute the veracity of said survey.

"In the second place, anent appellant's contention that Quiliano Bayla did not reasonably adjust discrepancies in bearings and distance in violation of paragraph 2 (a) of Forestry Circular No. 99, dated January 19, 1966, suffice it to state that the Memorandum of Agreement of the parties herein took into account the fact that the technical descriptions were not accurate or set forth with exactitude. The agreement, therefore, obviated any future misunderstanding by fixing the measurement of appellant's corner 4 to corner 5 boundary line at 16,000 meters and, to preclude the possibility of error, included in paragraph 3 of the agreement a stipulation that a precise surveying instrument shall be used in the survey.

"Moreover, there is no indication that Quiliano Bayla deviated from the terms of the agreement of the parties. On the contrary, officials of the Bureau of Forest Development confirmed that Bayla's relocation survey had been done strictly in accordance with the agreement.

"Finally, in respect to appellant's claim that the Director erred in ordering appellant to pay for the logs cut within the controverted areas which have been disposed and to turn over those undisposed in favor of Kalilid Wood Industries, Inc. and Agusan Wood Industries, Inc., this Office holds that it was within the competence of the Director to issue such a directive as ancillary to his jurisdiction defined in Presidential Decree No. 705, as amended, thus:

"SEC. 5. Jurisdiction of the Bureau - The Bureau shall have jurisdiction and authority over all forest lands, grazing lands, and all forest reservations including watershed reservations presently administered by other government agencies or instrumentalities.

"It shall be responsible for the protection, development, management, regeneration, and reforestation of forest land; the regulation and supervision of the operation of licensees, lessees and permittees for the taking or use of forest products therefrom or the occupancy or the use thereof; x x x

"Appellant's excuse that it acted in good faith and in reliance of the veracity of the [sic] Jesus De la Cruz's survey is believed untenable because, as the records disclose, it had continued to cut and dispose logs within the areas in controversy despite orders of forestry officials to refrain from continuing its logging operations. In this regard, appellant had even violated forestry rules and regulations, specifically Section 32 of Revised Administrative Order No. 11 which pertinently provides that a timber license may be suspended or canceled for, among others, cutting or operating outside the limits of the license and for failure to suspend operations within a [disputed] area, when so required by the Director of Forest Development or his authorized representatives, pending final decision of the conflict.

"Evidently, appellant is bound by law and equity to reimburse and turn over [to] the Kalilid Wood Industries, Inc. and Agusan Wood Industries, Inc. whatever logs were cut and/or disposed by the former from the latter's respective licensed areas inasmuch as it has been established that appellant had no right to the logs and had benefited wrongly from the appropriation of said logs." [17]

Sta. Ines appealed the Decision of the Minister of Natural Resources to the Office of the President. It submitted its Memorandum of Appeal [18] on October 4, 1983. In the said Memorandum, Sta. Ines admitted having continued its felling operations within the disputed area even pending the result of the Bayla survey but justified them on the grounds of economic necessity and good faith. [19] It reiterated that it should not be penalized for operating within its boundaries as determined in the De la Cruz survey, since the same governed the boundary relations of Sta. Ines

and its adjoining and adjacent concessionaires before the Bayla survey. Sta. Ines also denied being barred under the Memorandum of Agreement dated June 5, 1979 to protest the result of the Bayla survey, considering that the Bayla survey was conducted in violation of the said Memorandum.

On June 29, 1987, the Office of the President, through Executive Secretary Catalino Macaraig, Jr., issued a Decision^[20] dismissing the appeal of Sta. Ines and affirming in toto the Decision of the Minister of Natural Resources. The Office of the President held, thus:

"Appellant's insistence on its own interpretation of the Memorandum of Agreement is untenable x x x.

"We fail to see any other intention of the parties except that as stated in the Memorandum of Agreement x x x that the re-survey was to be made solely and only for the purpose of establishing the true and accurate areas of concessions of the parties involved to end their boundary disputes. x x x

"As to the appellant's contention of good faith in its felling of logs in the contested areas, the same is without merit.

"Records reveal that on complaint of appellees, the Bureau of Forest Development ordered appellant to stop felling logs in the disputed areas. In fact, appellant also agreed to stop doing such activities, as is clear in the Memorandum of Agreement x x x.

"When, therefore, appellant continued to fell and haul logs from the contested areas, despite the restraining orders of the offices below and its own commitment to stop logging operations within the conflicted areas, it acted in bad faith. Moreover, from the time complaints were filed by appellees against its activities, it was already put on notice that there were defects in its timber license agreement, especially as to the area covered thereby. Therefore, by the very fact that there was a dispute in boundaries, appellant, in allegedly relying on an earlier survey to justify its continuance of felling logs on the disputed area, should have been put on guard that there were obstacles which it must still overcome before it could even claim a legal right to continue operation.

"Worse, it was deceptive of appellant, with nothing more than a disputed map, to pretend as if its area of operation was not open to question, especially considering that there was a pending dispute, the settlement of which it had already agreed to, the results of which it held itself bound. The supposed presumption of legality of its acts pendente lite runs counter to the rules on arbitration and the terms of the Memorandum of Agreement x x x.

"Certainly, appellant would be unjustly enriching itself were it to escape liability for the felled and hauled logs. The stumping, scaling or yarding, conducted in the presence of the contending parties, of the logs felled and hauled from the disputed areas, could have only one purpose as basis for appellant to pay the value of or to return the same logs to appellees guaranteed by a bond in favor of the latter."^[21] (Emphasis ours.)

On July 21, 1987, Sta. Ines filed a Motion for Reconsideration^[22] persisting on its posture that had the Bayla survey been faithful to its TLA and Map with Technical Description, its northern boundary line would have been run for around 16,000 meters more or less, thus subsuming the gap of 300 meters into the area of Sta. Ines as the allowance accommodated within the phrase "around 16,000 meters more or less".^[23]

On November 20, 1987, the Office of the President, through Acting Deputy Executive Secretary Samilo Barlongay, denied the Motion for Reconsideration of Sta. Ines. It held:

"Indeed the Memorandum of Agreement dated June 5, 1979 itself specified that the boundary line should be exactly 16,000 meters x x x.

"And to preclude any possibility of error, consistent with the purpose of the agreement, namely, to end the parties' conflicting boundary lines, it is therein additionally stipulated that a precise survey instrument shall be used in the survey.

"The establishment or determination of a precise distance is, aside from being in accordance with the terms of the agreement, consistent with Forestry Circular No. 99, dated January 19, 1966, paragraph 2(a) of which reads:

"x x x As most of the technical descriptions are based on maps, or sketches not as accurate as the aerial maps, discrepancies in bearings and distances between corners shall be reasonably adjusted. x x x"

"Appellant cannot also pretend that it is not bound by the Bayla survey and claim that it is not conclusive. On the contrary, the agreement itself provides that the Bayla survey is conclusive. x x x

"Appellant's pleas of good faith in this regard pales into oblivion in view of the clear terms of the Memorandum of Agreement and its admission that it "opted to continue with its operation within the disputed area pending the result of the relocation survey conducted by a survey team headed by Quiliano Bayla" x x x. It did this activity notwithstanding orders for it to stop logging within the disputed area, as found by the Bureau of Forest Development x x x.

"In fine, this Office is not convinced of the merits of appellant's motion for reconsideration as the issues raised therein are not new but, rather, have been passed upon, discussed at length and found unmeritorious in the decision sought to be reconsidered." [24]

On December 7, 1987, Kalilid filed in the Regional Trial Court of Agusan del Norte, Butuan City, a Complaint for Attachment with Damages [25] docketed as Civil Case No. 3226 and raffled to Branch V.

In its Complaint, Kalilid prayed for eight million pesos (P8,000,000.00) in damages. This is the estimated value of the 8,231.22 cubic meters of logs felled, cut and removed by Sta. Ines from the forest area placed by the Bayla survey inside the timber license area of Kalilid. Kalilid accused Sta. Ines of fraud "in wrongfully asserting that said logs had been felled, cut and removed by virtue of a boundary conflict when the fact established in [the] administrative judgment clearly found encroachment upon plaintiff's licensed timber area to its prejudice, damage and injury violative of its property rights on the logs felled, cut and removed therefrom". [26]

On December 8, 1987, an ex-parte Writ of Attachment [27] was issued by Judge Hidalgo commanding the Provincial/City Sheriff of Agusan del Norte to attach personal and real properties belonging to Sta. Ines, as security for the award, if any, of damages to Kalilid. On the same day, Kalilid posted a bond of five hundred thousand pesos (P500,000.00).

On December 10, 1987, Sta. Ines filed a Motion for Extension to file Petition for Certiorari, Prohibition and Injunction to assail the adverse decisions of the Office of the President, the Minister of Natural Resources and the Director of Forest Development. The petition was filed on January 12, 1988 and docketed as G.R. No. 80849.

On December 11, 1987, Sta. Ines filed with the trial court an Urgent Motion to Reconsider/Quash/Dissolve Writ of Attachment. [28]

On December 15, 1987, the Deputy Provincial Sheriff and the Deputy Sheriff issued to the Registrar of the Land Transportation Commission, Butuan City, a Notice of Levy [29] covering four (4) vehicles of Sta. Ines. They also gave a Sheriff's Notice of Attachment [30] to the Station Commander of the Philippine Coast Guard, Butuan City, covering two (2) motor launches of Sta. Ines. They also levied upon 2,600 cubic meters of logs of Sta. Ines [31], 1,248.17 cubic meters of which became the subject of a Third Party Claim [32] filed by Extensive Wood and Processing Corporation.

On December 16, 1987, Sta. Ines manifested that it had filed a counterbond for the lifting of the Writ of Preliminary Attachment. The counterbond was denominated as JCL Bond No. 300 [33] dated December 14, 1987 for P500,000.00 issued by the First Integrated Bonding & Insurance Company, Inc.

On December 21, 1987, Sta. Ines filed its Answer with Counterclaim.[34]

On December 22, 1987, Kalilid filed, among others, a Motion to Sell Attached Logs at Public Auction[35] on the ground that they had already depreciated in value and continued to be dissipated. The logs were of perishable nature and had been kept in the water for a long period of time.[36]

On December 24, 1987, Sta. Ines filed its Opposition.[37] It claimed no necessity for such sale as Kalilid was protected by the counterbond of P500,000.00.

On the same day, December 24, 1987, the trial court issued an Order denying the Urgent Motion to Reconsider/Quash/Dissolve Order of Attachment and directing the respondent sheriffs to sell at public auction the logs and to deposit the proceeds therefrom with the clerk of court in the names of both Sta. Ines and Kalilid.

On December 29, 1987, Sta. Ines sought relief from this Court again. It filed a second Petition for Certiorari and Injunction with Prayer for Issuance of a Restraining Order docketed as G.R. No. 81114, praying for this Court to annul and set aside the said writ of attachment.

On January 4, 1988, Sta. Ines filed a Supplement to Petition[38] in G.R. No. 81114 alleging that Judge Hidalgo had gone to Manila at the time the said Order of December 24, 1987 was promulgated.

On January 6, 1988, the Court issued a temporary restraining order[39] enjoining Judge Hidalgo from further taking cognizance of Civil Case No. 3226 of the Regional Trial Court of Agusan del Norte/Butuan City and the respondent sheriffs from proceeding with the scheduled auction sale of the logs.

On January 14, 1988, Kalilid filed, in G.R. No. 81114, an Urgent Motion with Leave of Court to Lift Temporary Restraining Order. It called the attention of the Court to the fact that the counterbond posted by Sta. Ines was not only found insufficient by the trial court but also renounced by the First Integrated Bonding and Insurance Company as fake. Consequently, said bonding company filed in the trial court a Manifestation and Motion dated January 4, 1988 declaring that it will not honor its obligations under the counterbond because the same was spurious.[40]

On January 21, 1988, Sta. Ines filed a Manifestation[41] belying claims by Kalilid that there was bad faith and fraud in the posting of its counterbond. It argued that it was only after this Court had already issued a temporary restraining order that it learned of the infirmity of its counterbond. With the issuance of the temporary restraining order, however, Sta. Ines no longer saw the need to put up a substitute counterbond.[42] Nonetheless, it offered to post a substitute counterbond which up to this date, has not been made.

On January 25, 1988, the Court likewise issued a temporary restraining order[43] in G.R. No. 80849 enjoining the enforcement of the Order of the Director of Forest Development dated February 21, 1980, the Decision of the Minister of Natural Resources dated May 3, 1983, the Decision of the Office of the President through Executive Secretary Catalino Macaraig, Jr. dated June 29, 1987, and the Resolution of the Office of the President through Acting Deputy Executive Secretary Samilo Barlongay dated November 20, 1987.

Subsequently, G.R. Nos. 80849 and 81114 were consolidated.[44]

In a Resolution[45] dated February 19, 1992, we gave due course to the petitions in G.R. Nos. 80849 and 81114 and ordered the parties to file their respective memoranda.

On June 10, 1992, it was the turn of Sta. Ines to file an Urgent Motion for Authority to Sell the logs subject of the writ of preliminary attachment in G.R. No. 81114. It manifested that on October 21, 1991, the Sheriff of the Regional Trial Court of Agusan del Sur, Butuan City, Branch V, reported that the 720 pieces of logs earlier impounded on the strength of the writ of preliminary attachment had been partly destroyed by a fire that lasted

from October 9 to 11, 1991. Sta. Ines thus requested for authority to sell the burned logs as firewood or boiler to prevent the total waste thereof.[46]

On July 22, 1992, Kalilid filed its Comments to the Urgent Motion for Authority to Sell with Prayer for Authority to Sell. It prayed that Sta. Ines be ordered to put up a new bond to answer for whatever damages may be awarded to Kalilid and that the authority to sell the logs be granted not to Sta. Ines but to Kalilid.

On August 12, 1992, this Court granted[47] the motion of Sta. Ines to dispose of the burned logs at a public auction sale to be supervised by the sheriffs concerned.

The following are the grounds relied upon by Sta. Ines in these consolidated petitions:

In G.R. No. 80849:

"x x x

"In the case at bar, the public respondents acted without or in excess of their jurisdiction or with grave abuse of discretion x x x. Their conclusion that petitioner Sta. Ines encroached upon the areas of respondent AGWOOD and Kalilid is grounded on misapprehension of facts, and thus, manifestly mistaken, absurd and impossible.

"15.2 The public respondents conveniently closed their eyes to the fact that the Bayla Report miserably failed to comply with the terms and conditions of the Compromise Agreement, i.e. not conducting the relocation survey following the technical description of petitioner's TLA (NO. 51), and, thus, committed the same error of the Bote Report.

"x x x

"15.3 The right of the petitioner over the Timber License Agreement has the character of a property right for which it is entitled to constitutional protection.

"The right to enter into a contract is a property right and, under prevailing social and economic order is perhaps one of the most valuable property rights. x x x

"The Director of the Bureau of Forest Development, thence, the Minister of Natural Resources and finally the Office of the President, took turns, in violating the constitutional right of the petitioner to due process and equal protection.

"Solely based on the inconclusive and erroneous Bayla Report, the said public respondents condemned the petitioner guilty of encroachment, and ordered its property, consisting of logs, confiscated in favor of the private respondents.

"x x x

"15.6 Petitioner should not be held liable as it merely operated, in good faith, within the legal boundaries and strictly in accordance with the technical description of its Timber License Agreement and the physical boundaries laid down on the ground by the survey conducted by Forester De la Cruz x x x.

"15.7 The respondents brushed aside the well settled rule that boundaries shall be established in accordance with the title of each owner. x x x

"Thus, following such doctrine, the respondents should have determined the boundary line of Sta. Ines by virtue of its Timber License Agreement, as the Memorandum of Agreement stipulated, [with] which, as discussed, Forester De la Cruz failed to comply.

"x x x

"It is on this context that petitioner submits that, having exercised its right under the Timber License Agreement, in good faith, the strong arm of the executive branch of the government x x x should be restrained. Petitioner's act under such Timber License Agreement should not be condemned illegal or the fruits of its lawful exercise of such right should not be unduly confiscated without due process of law. Otherwise, petitioner would be unduly penalized for the administrative error of the government which issued the Timber License Agreement.

"In a conflict over boundaries where the evidence is contradictory the position of the party in possession is the better (*De los Santos vs. De la Cruz* 27 Phil 469). That which really defines a piece of land is not the area, calculated with more or less certainty, but the boundaries laid down in the description as enclosing the land and indicating its limits. (*Loyola vs. Bartolome*, 39 Phil. 544; *Escudero et al. v. Director of Lands*, 44 Phil. 83)."[48]

In G.R. No. 81114:

"1. The respondent judge committed a grave error in ordering the issuance of a writ of preliminary attachment.

"2. The respondent judge gravely abused his discretion when he refused to discharge/dissolve the Writ of Preliminary Attachment upon motion by petitioner that it was improperly and irregularly issued.

"3. The claim of the private respondent is for damages the amount of which is contingent/unliquidated; hence, attachment is not available.

"4. The recitals of the complaint and affidavit of preliminary attachment are generalized and mere legal conclusion.

"5. The filing by petitioner of a Counterbond in the amount of P500,000.00 was sufficient and legal reason for respondent judge to discharge the writ.

"6. The order to sell the attached logs issued by respondent judge is capricious, arbitrary and hasty.

"7. The filing of a Third-Party Claim is reason enough for respondent judge to hold in abeyance resolution of the Motion to Sell.[49]

We deny the petitions.

First. Findings of fact of quasi-judicial bodies which have acquired expertise because their jurisdiction is confined to specific matters, are accorded not only with respect but even finality if they are supported by substantial evidence,[50] even if such evidence might not be overwhelming or preponderant.[51] Courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities coming under the special technical knowledge and training of such agencies.[52] Indeed, issues involving basically technical matters deserve to be disentangled from undue interference from courts.[53]

We hold that the decisions of the public respondents are supported by substantial evidence. Sta. Ines continues to impugn the Bote and Bayla surveys as having violated its TLA No. 51 and Map with Technical Description for fixing the distance of its northern boundary line at exactly 16,000 meters from the junction of Campayian and Tagacupan Rivers. It insists that there should have been an allowance of around 300 meters more since its Technical Description states that the said line should be run for around 16,000 meters more or less.

We reject this submission. The words "about" and "more or less" when used in connection with quantity or distance, are words of safety and caution, intended to cover some slight or unimportant inaccuracy, and, while enabling an adjustment to the imperative demands of fixed monuments, they do not weaken or destroy the statements of distance and quantity when no other guides are furnished.[54] A line called in a grant "50 feet more

or less" must be taken to be of the length stated, for the rule in measuring distances is that words of qualification should be disregarded and the exact distance adopted. The words "about," "approximately," and "more or less," in connection with courses and distances, may be disregarded if not controlled or explained by monuments, boundaries, and other expressions of intention.[55] In the cases at bar, the disputed gap of 300 meters is not an insignificant distance. Thus, Sta. Ines cannot capitalize on the phrase, "around 16,000 meters more or less", for the words "more or less" can only cover an incidental and insubstantial inaccuracy.

Second. We note that to resolve the boundary dispute, Sta. Ines, Agwood and Kalilid agreed to a re-running of their common boundary lines through a resurvey using a precise instrument to be conducted by TMA Bayla in the presence of their representatives. An integral part of their agreement was the specific indication of the distance that will be run from the junction of Tagacupan and Campayian Rivers towards the west. Paragraph 2 of the Memorandum of Agreement dated June 5, 1979 clearly fixed the distance at 16,000 meters due west from the junction of Tagacupan and Campayian Rivers.

Sta. Ines cannot repudiate this Memorandum of Agreement. It knowingly entered the same despite the designation of the distance of its northern boundary line at 300 meters short from the point where the Agwood eastern boundary line ends. Sta. Ines knew that its northern boundary line will not meet the Agwood eastern boundary line because the latter was 300 meters further upstream along the Bagul River, necessitating the northern boundary line of Sta. Ines to be run for an additional 300 meters to meet the Agwood eastern boundary line.

Apparently, Sta. Ines was relying on paragraph 1 of the Memorandum of Agreement which provided that the relocation survey of the boundary line of Sta. Ines would be made "following the technical description of the approved licensed map of Sta. Ines". Again, Sta. Ines alludes to the phrase "around 16,000 meters more or less" as basis to insist that even the Memorandum of Agreement recognized its right to extend its northern boundary line to 16,300 meters to meet the Agwood eastern boundary line and capture the 300-meter gap within its timber license area. But as discussed above, there is no basis to interpret the phrase, "around 16,000 meters more or less" to justify the extension of the northern boundary line of Sta. Ines to 16,300 meters. When the Memorandum of Agreement refers to the Technical Description of the TLA of Sta. Ines, and the same states the northern boundary line of Sta. Ines to have a distance of "around 16,000 meters more or less", the statement of the distance of 16,000 meters should be taken as stated[56] and the words of qualification, disregarded.

In fine, whether it is the fixed distance of 16,000 meters indicated in the Memorandum of Agreement or the reference in that same Memorandum to the Technical Description of the TLA of Sta. Ines which states its northern boundary line to be run from the junction of Tagacupan and Campayian Rivers for "around 16,000 meters more or less", the said boundary line was correctly run by TMA Bayla for exactly the said distance.

Third. The records show that 8,231.22 cubic meters of timber was felled and hauled by Sta. Ines from the area claimed by Kalilid at the time that the Memorandum of Agreement was already effective.[57] On the other hand, 9,802.50 cubic meters of timber was felled and hauled by Sta. Ines from the area claimed by Agwood at the same time.[58] The logs were all hauled off to the log pond of Sta. Ines, placing them beyond the reach of both Kalilid and Agwood.

There would not have been any problem had Sta. Ines faithfully complied with the terms and conditions of the Memorandum of Agreement which banned it from conducting further felling operations within the disputed area.

The injury caused both Kalilid and Agwood has since then tripled, nay multiplied many times over. Not only were they deprived of immediate returns on their investment but they were dragged to a long-drawn legal battle to claim what has all this time been theirs.

Fourth. Sta. Ines also claims it cannot be deprived of its property without due process of law for the Bayla survey modified the area covered by its timber license agreement.

The agreement has no factual leg to stand on. As shown above, the Bayla survey was strictly undertaken in accordance with the technical description of the boundary lines of Sta. Ines as delineated in its Timber License Agreement. The TLA explicitly provided that the northern boundary of Sta. Ines runs from the junction of Capayian and Tagacupan Rivers due west for about 16,000 meters more or less. TMA Bayla did run the northern boundary of Sta. Ines at 16,000 meters, jurisprudence being settled that the exact distance shall be taken as it is, the words "about" and "more or less" being mere words of approximation designed to cover an insignificant or inconsequential distance. In other words, no property right of Sta. Ines was violated for the technical description of the forest area covered by its timber license agreement was correctly followed in the Bayla survey.

At any rate, it is too well-settled that timber licenses, permits and license agreements are the principal instruments by which the State regulates the utilization and disposition of forest resources to the end that public welfare is promoted. Merely evidencing a privilege granted by the State to qualified entities does not vest in the latter a permanent or irrevocable right to the particular concession area and the forest products therein.[59]

Finally we pass on the alleged irregularity on the issuance of writ of attachment by the trial court.

Pending litigation, the plaintiff may apply for provisional remedies, like attachment, to ensure the safety and preservation of the property in the possession of the adverse party.[60] Specifically, attachment is a juridical institution intended to secure the outcome of the trial, i.e., the satisfaction of the pecuniary obligation really contracted by a person or believed to have been contracted by him, either by virtue of a civil obligation emanating from contract or from law, or by virtue of some crime or misdemeanor that he might have committed.[61] It is enforced through a writ which is the process issued at the institution or during the progress of an action commanding the sheriff or other proper officer to attach property, rights, credits, or effects of defendant to satisfy the demand of the plaintiff.[62]

The overriding purpose of attachment is to secure a contingent lien on defendant's property until plaintiff can, by appropriate proceedings, obtain a judgment and have such property applied to its satisfaction, or to make provision for unsecured debts in cases where the means of satisfaction thereof are liable to be removed beyond the jurisdiction or improperly disposed of or concealed, or otherwise placed beyond the reach of creditors.[63]

Indeed attachment is primarily in aid of creditors. As used in the rules, however, the term, "creditors", should not be construed in its strict, technical sense. Rather, it should be given a broad construction as to embrace not only a creditor established as such by a contractual relation alleged in the complaint but also all parties who put in suit demands, accounts, interests or causes of action, for which they might recover in the suit any debt or damages.[64] A plaintiff, in an action for damages, like any ordinary creditor in an action to recover a debt, puts in suit his claim and once the claim is established in a judgment in his favor, he becomes a creditor of the defendant to the extent of the damage or debt thus established.[65] A claimant for damages is just as much a creditor the moment his demand is established by judgment as an ordinary creditor is, in the event his credit is established in the suit.

Kalilid may be considered a creditor entitled to attachment of so much of the property of Sta. Ines as necessary to ensure payment of the value of the timber which it wrongfully felled, cut and hauled from the timber license area of Kalilid.

In its complaint against Sta. Ines for damages with preliminary attachment filed in the Regional Trial Court of Agusan del Norte/Butuan City, Kalilid charged Sta. Ines with fraud in cutting and removing logs from the

disputed area notwithstanding the express undertaking of Sta. Ines under the Memorandum of Agreement dated June 5, 1979 to stop all felling operations while the encroachment cases were pending before the Director of Forest Development and also despite the latter's categorical order for Sta. Ines to cease logging activities in the disputed area. Kalilid's claimed damages in the amount of eight million pesos which is the estimated value of the 8,231.22 cubic meters of logs felled, cut and removed by Sta. Ines from the disputed area.

It is well-settled that the grant or denial of a writ of attachment rests upon the sound discretion of the court.[66] This Court finds that on the basis of the verified allegation of fraud, the definitive statement of damages, and the bond posted by Kalilid, the trial court soundly exercised its discretion in issuing a writ of attachment on December 8, 1987.

Sta. Ines also assails the Order of the trial court of December 24, 1987, denying its Urgent Motion to Reconsider/Quash/Dissolve Writ of Attachment. It contends that the Order was promulgated during the official leave of respondent Judge Hidalgo.

We are not persuaded. In the first place, the counterbond posted by Sta. Ines to quash the writ of attachment is undisputedly spurious. The bonding company has made it of record that it will not honor any obligation arising from the fake counterbond because it never issued the same. Without a valid counterbond, there is nothing to stand in place of the property attached if it were to be released, leaving the plaintiff thus with nothing to secure payment of any judgment that he may recover in the action.[67]

Secondly, Sta. Ines is undoubtedly guilty of fraud and bad faith in having felled, cut and hauled logs from the disputed area in blatant violation of the Memorandum of Agreement dated June 5, 1979.

Regardless, therefore, of the circumstances under which the said order of denial was rendered, the validity and efficacy of the writ of attachment itself, as issued on December 8, 1987, cannot be doubted.

WHEREFORE, the petitions for certiorari are **HEREBY DISMISSED**.

Costs against petitioner.

SO ORDERED.

Melo, (Acting Chairman), Mendoza, and Martinez, JJ., concur.

[1] Order of Edmundo V. Cortes, dated February 21, 1980, Rollo of G.R. No. 80849, pp. 42-44.

[2] Docketed as MNR Case No. 4608.

[3] Decision of Teodoro Q. Pena, dated May 3, 1983, Rollo of G.R. No. 80849, pp. 48-59.

[4] Docketed as O.P. Case No. 2388.

[5] Decision of Catalino Macaraig, Jr., dated June 29, 1987, Rollo of G.R. No. 80849, pp. 77-80.

[6] Resolution of Samilo N. Barlongay dated November 20, 1987, Rollo of G.R. No. 80848, pp. 95-100.

[7] Rollo of G.R. No. 80849, p. 35.

[8] Decision of Teodoro Q. Peña, p. 2, Rollo of G.R. No. 80849, p. 49.

[9] Petition dated January 8, 1988, p. 7, Rollo of G.R. No. 80849, p. 16.

[10] Ibid.

- [11] Petition dated January 8, 1988, p. 3, Rollo of G.R. No. 80849, p. 50.
- [12] Rollo of G.R. No. 80849, pp. 39-40.
- [13] Decision of Minister Teodoro Q. Peña dated May 3, 1983, p. 6, Rollo of G.R. No. 80849, p. 53.
- [14] Rollo of G.R. No. 80849, pp. 42-44.
- [15] Notice of Appeal, Rollo of G.R. No. 80849, p. 45.
- [16] Rollo of G.R. No. 80849, pp. 47-59.
- [17] Decision of Minister Teodoro Peña, pp. 8-11, Rollo of G.R. No. 80849, pp. 55-58.
- [18] Rollo of G.R. No. 80849, pp. 60-76.
- [19] Memorandum of Appeal, p. 4, Rollo of G.R. No. 80849, p. 63.
- [20] Rollo of G.R. No. 80849, pp. 77-80.
- [21] Decision of the Deputy Executive Secretary, pp. 6-7, Rollo of G.R. No. 80849, pp. 79-80.
- [22] Rollo of G.R. No. 80849, pp. 81-94.
- [23] Motion for Reconsideration, p. 6, Rollo of G.R. No. 80849, p. 86.
- [24] Resolution dated November 20, 1987, pp. 3-6, Rollo of G.R. No. 80849, pp. 97-100.
- [25] Rollo of G.R. No. 81114, pp. 37-49.
- [26] Complaint dated December 7, 1987, pp. 8-9, Rollo of G.R. No. 81114, pp. 45-46.
- [27] Rollo of G.R. No. 81114, pp. 81-83.
- [28] Rollo of G.R. No. 81114, pp. 84-90.
- [29] *Id.*, at pp. 91-92.
- [30] *Id.*, at pp. 93.
- [31] Sheriff's Return of Service of Summons with Writ of Attachment, Rollo of G.R. No. 81114, p. 789.
- [32] Rollo of G.R. No. 81114, pp. 117-129.
- [33] *Id.*, at pp. 98-101.
- [34] *Id.*, at pp. 111-116.
- [35] Rollo of G.R. No. 81114, pp. 130-132.
- [36] Motion to Sell Attached Logs at Public Auction, p. 2, Rollo of G.R. No. 81114, p. 131
- [37] Opposition to Plaintiff's Motion to Sell Attached Logs at Public Auction, pp. 2-3, Rollo of G.R. No. 81114, pp. 148-149.
- [38] Rollo of G.R. No. 81114, pp. 157-162.
- [39] Rollo of G.R. No. 81114, pp. 175-176.
- [40] Urgent Motion with Leave of Court to Lift Temporary Restraining Order and to Sell Logs at Public Auction

and Proceeds thereof Deposited in Court, pp. 5-13, Rollo of G.R. No. 81114, pp. 226-234.

[41] Rollo of G.R. No. 81114, pp. 309-318.

[42] Manifestation, pp. 8-9, Rollo of G.R. No. 81114, pp. 316-317.

[43] Rollo of G.R. No. 80849, pp. 105-107.

[44] Resolution dated February 17, 1988; Resolution dated November 28, 1988, Resolution dated May 16, 1990 and Resolution dated February 19, 1992, Rollo of G.R. No. 81114, pp. 728, 731, 724 and 799, respectively.

[45] Rollo of G.R. No. 81114, pp. 384-385.

[46] Urgent Motion for Authority to Sell, pp. 2-3, Rollo of G.R. No. 81114, pp. 807-808.

[47] Resolution, Rollo of G.R. No. 80849, pp. 446-447.

[48] Petition dated January 8, 1988, pp. 13-19, Rollo of G.R. No. 80849, pp. 22-28.

[49] Petition dated December 29, 1987, pp. 12, 16, 17, 24, and 26, Rollo of G.R. No. 81114, pp. 13, 17, 18, 25, and 27.

[50] *International Container Terminal Services, Inc. v. NLRC*, 256 SCRA 124, 135-136 (1996); *Alba v. Nitorreda*, 254 SCRA 753, 765 (1960), citing *Villanueva v. Court of Appeals*, 205 SCRA 537, 544-545 (1992); *Cocofed v. Trajano*, 241 SCRA 363 (1995); *Philippine Merchant Marine School, Inc. v. Court of Appeals*, 244 SCRA 770, 785 (1995).

[51] *Ynson v. Court of Appeals*, 257 SCRA 411, 423 (1996); *Casa Filipina Realty Corporation v. Office of the President*, 241 SCRA 165 (1995); *Rubenecia v. Civil Service Commission*, 244 SCRA 640, 652 (1995).

[52] *First Lepanto Ceramics, Inc. v. Court of Appeals*, 253 SCRA 552, 558 (1996); *Concerned Officials of the Metropolitan Waterworks and Sewerage System v. Vasquez*, 240 SCRA 502, 528-530 (1995).

[53] *Concerned Officials of the Metropolitan Waterworks and Sewerage System v. Vasquez*, 240 SCRA 502, 530 (1995).

[54] 11 C.J.S. Section 4, p. 541.

[55] 12 Am Jur 2d, Section 57, pp. 596-597

[56] 11 C.J.S. Section 4, p. 541.

[57] Report on Boundary Conflict dated September 4, 1979 by the District Forester, p.2, Rollo of G.R. No. 81114, p. 551.

[58] *Id.*, at p. 3, Rollo of G.R. No. 81114, p. 552.

[59] *Tan v. Director of Forestry*, 125 SCRA 302, 325-326 (1983); *Oposa v. Factoran, Jr.*, 224 SCRA 792, 811-812 (1993).

[60] Francisco, Vicente J., *The Revised Rules of Court in the Philippines*, Rules 57-61, 1985 Edition, p. 1.

[61] *Id.*, at p. 4.

[62] *Ibid.*

[63] Francisco, Vicente J., *The Revised Rules of Court in the Philippines*, Rules 57-61, 1985 Edition, p. 5.

[64] *Id.*, at p. 23.

[65] *Ibid.*

[66] *People's Bank and Trust Co. v. Syvel's Incorporated*, 164 SCRA 247, 253 (1988); *Jopillo, Jr. v. Court of Appeals*, 167 SCRA 247, 253 (1988).

[67] Sec. 12, Rule 57, 1997 Rules of Civil Procedure.

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