

**\*\*Title:\*\***

Apex Mining Co., Inc. v. Southeast Mindanao Gold Mining Corporation

**\*\*Facts:\*\***

1. **\*\*Establishment of Forest Reserve (1931):\*\*** Governor General Dwight F. Davis issued Proclamation No. 369, establishing the Agusan-Davao-Surigao Forest Reserve covering approximately 1,927,400 hectares.
2. **\*\*Discovery and Claims (1983-1984):\*\*** Camilo Banad and his group discovered traces of gold in Mt. Diwata and filed a Declaration of Location (DOL) for six mining claims. They later organized the Balite Communal Portal Mining Cooperative (Balite) and entered an operating agreement with Apex Mining Corporation (Apex).
3. **\*\*Marcopper Involvement (1984-1986):\*\*** Marcopper Mining Corporation (MMC) filed several DOLs and realized the area was within a forest reserve. MMC secured a Prospecting Permit in 1985 and an Exploration Permit (EP 133) in 1986, subsequently filing for the cancellation of small-scale mining permits.
4. **\*\*Legal Battles Begin (1986-1991):\*\*** Apex contested MMC's EP, claiming the area was not within a forest reserve, leading to a series of dismissals and reconsiderations. The Bureau of Mines and Geo-Sciences (BMG) declared MMC's permit invalid, and DENR reversed this decision. The Office of the President affirmed DENR's ruling. Apex's certiorari petition in 1991 resulted in the Supreme Court declaring the area a forest reserve.
5. **\*\*Issuance of DAO No. 66 (1991):\*\*** DENR Secretary declared a portion of the forest reserve open to small-scale mining.
6. **\*\*Further Applications and Disputes (1993-1997):\*\*** Multiple entities, including Balite, Rosendo Villaflor, Southeast Mindanao Gold Mining Corporation (SEM), and others filed competing mining applications. SEM received MMC's EP 133 via assignment in 1994.
7. **\*\*Panel of Arbitrators' Resolution (1997):\*\*** Confirmed MMC's rights under EP 133, ruling adverse claimants' applications invalid due to the lack of required plans, despite recognizing SEM's MPSA application.
8. **\*\*Mines Adjudication Board (1998):\*\*** Reversed the PA's decision on technical grounds, broadly recognizing SEM's application but excluding areas declared for small-scale mining by DAO No. 66.
9. **\*\*Court of Appeals (2002):\*\*** Affirmed the PA's decision, declared MAB's ruling void; upheld validity and assignment of EP 133 to SEM.

**\*\*Issues:\*\***

1. The validity of SEM's EP 133 following MMC's non-compliance with permit terms and conditions.

2. Apex's priority claim to the disputed area under the principle of "Priority in Time, Priority in Right."
3. The legality of DENR Secretary's issuance of DAO No. 66.
4. Impact of subsequent executive actions on competing mining claims in the Diwalwal Gold Rush Area.

**\*\*Court's Decision:\*\***

1. **\*\*Validity of EP 133 and Its Transfer:\*\*** The Supreme Court ruled that MMC's EP 133 expired by non-renewal in 1994, and the transfer to SEM was void. The assignment lacked the required approval from the DENR Secretary and SEM was not an authorized agent of MMC.
2. **\*\*Priority in Time Principle:\*\*** Apex's claim as the initial discoverer and recorder of mining claims did not supersede the invalidated EP 133 held by MMC/SEM.
3. **\*\*Legality of DAO No. 66:\*\*** The DENR Secretary had no authority to declare portions of a forest reserve as non-forest for small-scale mining operations. Proclamation by the President is required for such a conversion.
4. **\*\*Subsequent Executive Actions:\*\*** Proclamation No. 297 and subsequent D.A.O. 2002-18 by President Gloria Macapagal-Arroyo, declaring the area a mineral reservation and stipulating the halt of all mining activities, overruled prior claims and applications, giving the State primary control over mining operations.

**\*\*Doctrine:\*\***

1. **\*\*Assignment of Mining Rights:\*\*** The assignment of exploration permits must have the prior approval of the DENR Secretary. The inability to renew and the non-approval of transfers render the original permit and any subsequent assignment invalid.
2. **\*\*Authority to Withdraw Forest Reserves:\*\*** The power to withdraw lands from forest reserves to declare them open for mining operations lies solely with the President, as stipulated in CA No. 137 and PD No. 463, not the DENR Secretary.

**\*\*Class Notes:\*\***

- **\*\*Assignment and Transfer of Mining Rights:\*\*** Must be approved by the DENR Secretary per PD No. 463 and RA No. 7942.
- **\*\*Forest Reserve Status:\*\*** Authority for conversion to non-forest land lies with the President (CA No. 137, PD No. 463).
- **\*\*Priority in Mining Law:\*\*** Initial claims do not hold if subsequent procedural and regulatory requirements are not met.
- **\*\*Proclamation No. 297 and RA 7942:\*\*** President has authority to establish mineral

reservations in national interest.

**\*\*Historical Background:\*\***

The Diwalwal Gold Rush area has been the epicenter of intense mining disputes since the 1980s, reflecting broader issues of resource allocation, regulatory oversight, and the intersection of local and corporate interests with environmental preservation. Proclamation No. 369 paved the way for such conflicts by designating large tracts of potentially mineral-rich lands as forest reserves. Over time, as mining activities intensified, it brought about legal confrontations amplified by regulatory decisions and subsequent national policies on natural resource management and environmental protection. The case exemplifies the complexities in balancing resource extraction with sustainable development and lawful governance.