

FIRST DIVISION

[G.R. No. 226176. August 09, 2023]

NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP), ZENAIDA BRIGIDA HAMADAPAWID, DIONESIA O. BANUA, CONCHITA C. CALZADO, PERCY BRAWNER, COSME LAMBAYON, SANTOS UNSAD, AND BASILIO WANDAG, PETITIONERS, VS. MACROASIA CORPORATION, RESPONDENT.

**D E C I S I O N
(BASED ON COMPROMISE AGREEMENT)**

ROSARIO, J.:

This is a Petition for Review on *Certiorari*^[1] (Petition) filed under Rule 45 of the Rules of Court by petitioners National Commission on Indigenous Peoples (NCIP), Zenaida Brigida Hamada-Pawid, Dionesia O. Banua, Conchita C. Calzado, Percy Brawner, Cosme Lambayon, Santos Unsad, and Basilio Wandag (collectively, petitioners) against respondent Macroasia^[2] Corporation (Macroasia), seeking to reverse and set aside the Amended Decision^[3] dated March 14, 2016 and the Resolution^[4] dated August 9, 2016, and to reinstate the Decision^[5] dated April 22, 2015, all promulgated by the Court of Appeals (CA) in the case docketed as CA-G.R. SP No. 124632.

Before the Court could resolve the Petition, Macroasia filed a Joint Motion to Render Judgment Based on Compromise Agreement^[6] dated February 21, 2023, manifesting that the parties have finally resolved their differences and agreed to amicably settle the subject case, and submitting the Compromise Agreement^[7] dated February 1, 2023. Accordingly, Macroasia prayed that the case be declared closed and terminated based on the said Compromise Agreement.

In a Manifestation and Motion^[8] dated March 30, 2023, the Office of the Solicitor General, on behalf of the NCIP, joined Macroasia in the submission of the Motion to Render Judgment Based on Compromise Agreement.

The Compromise Agreement is reproduced verbatim, to wit:

COMPROMISE AGREEMENT

This Compromise Agreement (this “**Agreement**”) is executed this 1st day of February 2023 at _____, by and between:

NATIONAL COMMISSION ON INDIGENOUS PEOPLES, a government agency created and operating in accordance with R.A. 8371, with principal office at the 2nd floor, N. Dela Merced and Sons Building, Corner West and Quezon Avenues, Quezon City, herein represented by its Chairperson ALLEN A. CAPUYAN, of legal age, and hereinafter referred to as the “**NCIP**”.

-and-

MACROASIA MINING CORPORATION, corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at 12th Floor PNB-Allied Bank Bldg., 6754 Ayala Avenue, Makati City 1226, represented herein by its President, **EDUARDO LUIS T. LUY**, hereinafter referred to as “**Macroasia Mining**” acting as legal assignee and lawful representative of Macroasia Corporation;

(with each of the foregoing referred to as “**Party**” and collectively referred to as “**Parties**”)

WITNESSETH: that

WHEREAS, a Mineral Sharing Production Agreement (“**MPSA**”) No. 220-2005-IVB has been issued to Macroasia Corporation on December 2005 by the government as a result of the conversion of their mining lease contracts under the old mining law and currently under final stages of securing documents for commercial production at the Mines and Geosciences Bureau (“**MGB**”) and other government agencies;

WHEREAS, on the strength of MPSA 220-2005-IVB, Macroasia Corporation conducted a mining exploration and possible development and utilization for commercial purposes;

WHEREAS, Macroasia Corporation applied for mining and development permits with the MGB, which were endorsed to the NCIP for the conduct of the Free and Prior Informed Consent (“**FPIC**”) process, a requirement for the issuance of the Certification Precondition;

WHEREAS, a Certificate of Compliance has been issued by NCIP on March 17, 2006, certifying that Macroasia Corporation has complied with all procedures and processes for the issuance of Certification Precondition including the conduct of the mandatory Field Based Investigation (“**FBI**”);

WHEREAS, in March 2010, the NCIP Regional Office directed the conduct of the FPIC process in relation to Macroasia Corporation’s application for Certification Precondition;

WHEREAS, the FPIC Team conducted the FPIC process with regard to the Pala’wan Indigenous Cultural Communities/Indigenous Peoples (“**ICCs/IPs**”) of Barangays Ipilan, Mambalot, and Maasin;

WHEREAS, on April 21, 2010, Pala’wan leaders from Barangays Ipilan, Mambalot, and Maasin issued a Joint Resolution of Consent. On the same date, the Pala’wan ICC/IP leaders and Macroasia Corporation executed a Memorandum of Agreement/Kalatas ng Kasunduan;

WHEREAS, the FPIC Team recommended the issuance of a Certification Precondition in favor of Macroasia Corporation;

WHEREAS, the NCIP Regional Office constituted a Regional Review Team (“**RRT**”) to evaluate the findings of the findings of the FPIC Team;

WHEREAS, the RRT recommended the conduct of validation of the decision-making process of the IPs and to secure the FPIC of the IP communities of the indirectly affected areas, among others;

WHEREAS, on February 28, 2011, the NCIP Chairperson constituted a Validation Team to investigate the conduct of the FPIC process. The Validation Team recommended the issuance of the Certification Precondition;

WHEREAS, the NCIP En Banc issued Resolution No. 001-2012, denying the issuance of a Certification Precondition mainly on the ground that a separate FBI

is required on the two indirectly affected barangays namely Barangay Aribungos and Barong-barong. Macroasia Corporation then moved for a reconsideration but NCIP denied the same on February 23, 2012;

WHEREAS, Macroasia Corporation elevated the matter to the Court of Appeals (“CA”) by way of a petition for review docketed as CA G.R. SP. [sic] No. 124632;

WHEREAS, on March 14, 2016, the Court of Appeals issued an *Amended Decision* where it directed the National Commission on Indigenous Peoples (NCIP) to issue a Certification Precondition in favor of the Corporation;

WHEREAS, NCIP moved for a reconsideration of the CA Decision but was denied in a Resolution dated August 9, 2016;

WHEREAS, NCIP filed a Petition for Review on Certiorari with the Supreme Court docketed as G.R. No. 226176 (*National Commission on Indigenous Peoples (NCIP), Zenaida Brigada Hamada-Pawid, et.al. [sic] vs. Macroasia Corporation*);

WHEREAS, on June 7, 2019, Macroasia Corporation assigned all its rights, title to, interests, and obligations under MPSA Nos. 220-2005-IVB covering an area of 1,114 hectares, situated in Barangays Ipilan, Mambalot and Maasin in the Municipality of Brooke’s Point, Province of Palawan, Philippines to Macroasia Mining;

WHEREAS, pursuant to Section 46 of DENR Administrative Order No. 21-10, the Secretary of the DENR issued an Order on February 1, 2021, approving the assignment of MPSA No. 220-2005-IVB, among others, to Macroasia Mining;

WHEREAS, Macroasia Mining, as the lawful assignee of MPSA No. 220-2005-IVB, initiated the FPIC process as regards to Barangay Aribungos and Barong-Barong as compliance with Administrative Order No. 03 series of 20212 last August 9, 2022. The FPIC process culminated with the execution of a Memorandum of Agreement/Kalatas ng Kasunduan between the IP leaders of the indirectly affected barangays;

WHEREAS, Macroasia Mining is duly authorized by Macroasia Corporation to enter into any agreement to act for and bind it in any issue or concern arising from or relative to MPSA Nos. 220-2005-IVB including any action concerning the

complete settlement and/or resolution of all pending issues in G.R. No. 226176.

WHEREAS, by virtue of the Deed of Assignment and authority conferred by Macroasia Corporation, Macroasia Mining met with NCIP and have agreed to settle G.R. No. 226176 and all related issues amicably without going through the rigors of a full blown trial;

NOW, THEREFORE, for and in consideration of the foregoing premises and of the mutual covenants and undertakings hereinafter set forth, the Parties hereby enter into this Compromise Agreement under the following terms and conditions:

1. Both Parties acknowledge that -
 - a. Macroasia Mining conducted a separate FBI/FPIC process for Barangay Aribungos and Barong-barong last August 2022 in compliance with NCIP En Banc Resolution No. 001-2012;
 - b. The FPIC process was properly conducted and validated by the NCIP Provincial Regional Offices;
 - c. The ICCs/IPs of the three directly impacted barangays and two indirectly affected barangays issued a Joint Resolution of Consent after their respective FPIC process;
 - d. The ICC/IP leaders of the directly affected barangays issued a Pinagkaisang Pahayag dated 12 November 2022 which affirmed their continued approval and support of the mining activities in their respective barangays; and
 - e. During the pendency of their mining permit applications, Macroasia Mining had continually supported the said barangays, especially their ICCs/IPs, at the height of the pandemic as part of its commitment and social responsibility.
2. Obligation of the Parties. Simultaneously with the signing of this Agreement, the Parties have agreed to perform the following:
 - a. Macroasia Mining will continue to secure all necessary permits pursuant to all mining laws, rules and regulations;
 - b. NCIP will continue to review the processes conducted by Macroasia Mining and will provide orders, comments and recommendations for its compliance;
 - c. The Parties shall execute the Joint Motion for Judgment based on this Compromise Agreement attached and made an integral part hereto

- and file the same with the Supreme Court; and
- d. The Parties further agree to do and perform any and all acts, including, among others, the preparation, execution, submission and/or filing of any and all documents, agreements, pleadings or motions to cause the approval of this Agreement and close any controversy. The Parties further undertake not to perform any act that will delay or prevent the foregoing.
3. As a result of this Compromise Agreement, all Parties, including their assignors, assignees and/or successors in interests, have agreed to jointly move for the DISMISSAL WITH PREJUDICE of G.R. No. 226176 pending before the Supreme Court; and to consider the said case CLOSED and TERMINATED based on said Compromise Agreement.
 4. All Parties further confirm the factual antecedents and manifest that this Compromise Agreement was executed freely and voluntarily with full appreciation of its consequences and that the issues and/or incidents leading to the execution of the same have been referred, discussed, consulted and agreed upon with the assistance of their respective counsels.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties, intending to be legally bound hereby, have signed or caused this Compromise Agreement to be signed by their respective duly authorized officers as of the day and year set forth above.

FIRST PARTY

NATIONAL COMMISSION ON INDIGENOUS PEOPLES

by:

[Signed]

ALLEN A. CAPUYAN

NCIP Chairperson

SECOND PARTY

MACROASIA MINING CORPORATION

by:

[Signed]

EDUARDO LUIS T. LUY

President and Chairman, MacroAsia Mining Corporation

Signed in the Presence of

[Signed]

ATTY. CAESAR M. ORTEGA

[Signed]

ATTY. MARIVIC T. MOYA

WHEREFORE, finding the Compromise Agreement to be validly executed and not contrary to law, morals, good customs, public policy, and public order, the Joint Motion to Render Judgment Based on Compromise Agreement is **GRANTED** and the Compromise Agreement is **APPROVED** and **ADOPTED**. The parties are **ENJOINED** to comply with the terms and conditions of the Compromise Agreement in utmost good faith. **ACCORDINGLY**, the instant case is deemed **CLOSED** and **TERMINATED**.

SO ORDERED.

Gesmundo, C.J. (Chairperson), Hernando, Zalameda, and Marquez, JJ., concur.

^[1] *Rollo*, pp. 10-33.

^[2] Stylized as “MacroAsia” in some parts of the *rollo*.

^[3] *Rollo*, pp. 35-50. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Edwin D. Sorongon.

^[4] *Id.* at 53-54. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Edwin D. Sorongon.

^[5] *Id.* at 57-74. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Edwin D. Sorongon.

^[6] *Id.* at 618-619.

^[7] *Id.* at 620-626.

^[8] *Id.* at 614-617.

Date created: October 20, 2023