

TAGUMPAY MINERALS AND MINING ASSOCIATION, PETITIONER AND APPELLANT, VS. JESUS C. MASANGKAY AND THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, RESPONDENTS AND APPELLEES.

G.R. No. L-28946. August 18, 1972

Ponente: ANTONIO, J.

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ANTONIO, J.:

Petition for review of the decision of the Secretary of Agriculture and Natural Resources, dated November 15, 1966, reversing the decision of the Director of Mines, rendered on July 13, 1966, and granting to respondent-appellee Jesus C. Masangkay, the preferential right to lease the placer mining claims, situated in the Barrios of Wawa and Bagolayag, Municipality of Abra de Ilog, Province of Occidental Mindoro and of the order dated April 2, 1968 of said respondent denying petitioner's motion for reconsideration. The present petition was brought to Us under the provisions of Section 61 of the Mining Act (Com. Act No. 137 as amended by Rep. Act No. 746 and by Rep. Act No. 4388).

The present proceedings stemmed from the overlapping of portions of the placer mining claims of respondent-appellee Masangkay, designated as "Victory", "Victory-1", and "Victory-2", prospected and located by him sometime in 1962 and duly recorded with the mining recorder during the same year, pursuant to the provisions of the mining act, with that of the "Tagumpay" mining claims of petitioner, prospected, located and registered sometime in 1960.

The questioned decision of November 15, 1966 of respondent Secretary recites as follows:

"On July 13, 1966, the Director of Mines rendered a decision in the above-entitled case, the dispositive portion of which reads, to wit:

'IN VIEW OF THE FOREGOING, this Office holds that the protestant should be given the preferential right to lease the area in question. Accordingly, Placer Lease Application No. V-1223 of the Tagumpay Minerals and Mining Association be given due course.'

"From the foregoing decision, Masangkay, thru counsel, appealed to this Office alleging, in support, thereof:

'1. That decision of the Director of the Bureau of Mines is not in accordance with the facts and evidence presented during the trial;

'2. That the aforesaid decision is contrary to law.'

"The principal issue obtaining in this case centers on preferential right, the resolution of which primarily depends on the validity of the prospecting, location and declaration of the lode claim in question.

"There is no question that the location and declaration of the claim by Jesus Masangkay, as recorded in the Office of the Mining Recorder, are valid since no evidence disputing such validity was presented during the hearing of

the case. The records show that Masangkay complied with all that was required of him including the filing of papers preparatory to the location of his claim which was given due course by the Bureau of Mines. The area located was duly recorded and surveyed, and most important, Masangkay was granted a temporary mines permit therefor.

"On the other hand, the evidence of Tagumpay Minerals and Mining Association tend to prove an alleged overlapping of a certain portion of the area allegedly previously located by its predecessor. Whatever the outcome of this question is immaterial, for whether or not the claim of appellee's predecessor is valid and in accordance with law is the factor determinative of the association's right to lease the lode claim in question, the validity of Masangkay's claim having already been exposed above.

"The records clearly establish the fact that the claim of appellee-association was, before it was actually assigned to it, located by Luis S. Selda, for himself and others. In other words, Selda did the prospecting and location of the 'Tagumpay' placer mining claims not only for his benefit but also for the benefit of his companions who failed to execute in his favor a written power of attorney as required by law. Section 24 of the Mining Act (C.A. No. 137) is explicit. Thus, it reads:

'SEC. 24. - Prospectors may prospect for themselves, or for other persons, associations, corporations, or other entities, qualified to locate mining claims and to acquire leases of mineral lands under the provisions of this Act. A proper powerofattorney in writing shall in each case be given by the employer to his prospector, which power of attorney shall be duly acknowledged and shall be recorded intheoffice of the mining recorder concerned coincident with the recording of a declaration of location. Regardless of the number of claims located by the prospector for the same principal in the same province or mining district, he shall be required to record but one power of attorney in any such province or district.' (Italics supplied).

"It cannot be soundly said that a claim prospected and located by a prospector for another without the corresponding power of attorney in writing executed by the employer in favor of the prospector is valid in the face of the afore-quoted provision of law. Selda himself, the head of the appellee-association, admitted that he had no written power of attorney from his companions although he insisted that his authority emanated from the articles of incorporation of the instant association which, incidentally, came into being long after the prospecting and location of the said claim, which allegedly includes the disputed premises.

"IN THE LIGHT OF ALL THE FOREGOING CONSIDERATIONS, the decision appealed from should be, as hereby it is, REVERSED; and the preferential right to lease the claim in question, GRANTED Jesus Masangkay."

On December 9, 1966, petitioner, filed a Motion for reconsideration of the aforesaid decision, invoking the following grounds:

"* * *. 1. That the protestant-appellee has the preferential right over the contested areas and not the protestee-appellant, since the said Placer Mining Claims (and not Lode Claims as cited in the decision) were validly prospected, located and manifestly declared in the declaration of location by the protestant-appellees predecessors-in-interests.

"2. That contrary to the findings of this Honorable Office, the protestant-appellee contested or disputed the location and declaration of the protestee-appellant.

"3. That no power of attorney is required when the protestant-appellees' predecessors-in-interests prospected, located and finally filed the corresponding declaration of location."

Petitioner's motion was to no avail, as on April 2, 1968 the Respondent Secretary ruled as follows:

"This is a motion filed in the above-entitled case by Tagumpay Minerals and Mining Association, thru counsel,

praying for reconsideration of the decision of this Office dated November 15, 1966, wherein the preferential right to lease the lode (placer) claim in question was granted to Jesus Masangkay.

"This Department abhors superfluity but, if only to emphasize that the allegations in the instant motion have been sufficiently expounded and passed upon in the decision sought to be reconsidered, this Office shall reiterate hereunder the primordial reasons why the preferential right to lease the lode (placer) claim in question should be awarded to Jesus C. Masangkay.

"In the said decision of November 15, 1966, this Office stated that the principal issue in the case 'centers on preferential right, the resolution of which primarily depends on the validity of the prospecting, location and declaration of the lode (placer) claim in question.'

"The Tagumpay Minerals tried to prove overlapping of a certain portion allegedly previously located by its predecessor. This Office maintained, as it still does, that whatever the outcome of such overlapping was immaterial, for whether or not the claim of appellee's (Tagumpay) predecessor was valid and in accordance with law was the factor determinative of the appellee's right to lease the lode (placer) claim in question, the validity of appellant Masangkay's claim having been established already, the same not having been successfully refuted, he, having complied with all that was required of him including the filing of papers preparatory to the location of his claim; the area located, having been duly recorded and surveyed; and he, having been granted a temporary mines permit therefor (NO. V-570) on March 30, 1965. As a matter of fact, Mines Temporary Permit No. V-662 was issued to Masangkay on February 14, 1967, upon recommendation of the Director of Mines.

"This Office held that the prospecting and location by Selda for 'Tagumpay' was null and void for he was not equipped with a written power of attorney as required under Section 24 of the Mining Act. This is an indispensable legal requirement and not a mere technicality. Selda himself admitted that on August 15, 1960, he was in Bagolayag, Abra de Ilog, locating the 'Tagumpay' mining claim 'under the name of Tagumpay Minerals and Mining Association,' although at that time, the same was not yet in existence. Selda likewise admitted, when asked what his authority was, that his authority was based on the Articles of Incorporation of the Association.

"The foregoing prove that when Selda was locating for Tagumpay, the association had no legal personality yet and when it came into being after the registration of its articles, it failed to exercise in favor of Selda the power of attorney required under Section 24 of the Mining Act.

"IN VIEW OF THE FOREGOING, the instant motion for reconsideration should be, as hereby it is, DENIED."

The principal issue, as stated in the appealed decision, "centers on preferential right, the resolution of which depends on the validity of the prospecting, location and declaration of the placer claim in question." The Respondent Secretary found that there is "no question that the location and declaration of the claim of Masangkay, as recorded in the office of the Mining Recorder, are valid since no evidence disputing such validity was presented" and that "Masangkay complied with all that was required of him* * *. The area located was duly recorded and surveyed, and most important, Masangkay was granted a temporary mines permit thereon." That while the "evidence of Tagumpay Minerals and Mining Association tend to prove an alleged overlapping of a certain portion of the area allegedly previously located by its predecessors", the records "clearly establish the fact that the claim of appellee-association, was, before it was actually assigned to it located by Luis S. Selda, for himself and others." In other words according to Respondent Secretary's findings "Selda did the prospecting and application of the "Tagumpay" placer claims not only for his own benefit but also for the benefit of his companions who failed to execute in his favor a written power of attorney as required by law."

In its "amended Petition for Review", petitioner now assails these findings of the Secretary of Agriculture and

Natural Resources, contending mainly that "Luis Selda did not alone prospect and locate the said "Tagumpay" placer mining claims but with his companions who were themselves the applicants and registrants of the said claim," and therefore Section 24 of the Mining Act, upon which the decision was predicated is inapplicable.

We consider the present petition as an appeal by certiorari.[1] We said in the Basaysay case[2] that it is "well settled that in appeals by certiorari * * * the findings of fact made in the decision appealed from will not be reviewed by this Court, unless there has been a grave abuse of discretion in making said findings, by reason of the total absence of competent evidence in support thereof." Such competent evidence undoubtedly exist in the admissions at the hearing of Luis Selda himself that the "Tagumpay" mining claims were prospected and located by Luis Selda not only for his own benefit but also on behalf of his companions who failed to execute in his favor the power of attorney required by Section 24 of the Mining Law.[3]

We are therefore bound by such factual findings.

The respect we have accorded to the findings of fact of the Secretary of Agriculture and Natural Resources, does not however foreclose the authority of this Court to correct any action of the aforesaid Respondent which is based upon a misconstruction of the law. This rule we have declared in a number of cases.[4]

While it is implicit from Sec. 24 of the Mining Act as amended by Rep. Act No. 4388, that where a prospector may prospect and locate mining claims "for other persons, associations, corporations, or other entities qualified to locate mining claims" a proper power of attorney in writing from the employer is necessary, and that failure to register such power of attorney with the mining recorder "on or before the recording" of the declaration of location "shall make the necessary claim or claims null and void,"[5] it does not necessarily follow that the mining claims prospected and located by such locator for himself is also pro tanto nullified.

The plain and unmistakable language of the statute confers upon us no warrant to declare null what Selda himself could have lawfully prospected and located. In construing statutes, courts should always endeavor to give such interpretation of the language used to make it consistent with reason and justice.[6]

Since there is no question that Selda was qualified to prospect and locate for himself to the extent of eight hectares[7] of the "Tagumpay" placer mining claims, Petitioner to whom said claims have been assigned should be granted preferential right to lease such area. The same area should be segregated by the Director of Mines from the area covered by the "Tagumpay" Mining Claims, in a manner consistent with fairness and equity, giving preference to that part thereof which was first prospected and located by said locator.

WHEREFORE, the decision appealed from is modified and this case remanded to the Director of Mines for such further proceedings in consonance with this decision. Without costs.

Concepcion, Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, and Esguerra, JJ., concur.

Teehankee, J., concurs in the result.

Barredo and Makasiar, JJ., took no part.

[1] Section 61 of the Mining Act as amended by Republic Act No. 4388, providing that in case "anyone of the parties should disagree from the decision or order of the Secretary of Agriculture and Natural Resources, the matter may be taken to the Court of Appeals or the Supreme Court as the case may be * * *" must be read in relation to Sections 17 and 29 of the Judiciary Act as amended by Republic Act No. 2613, which was the law then at the time of the filing of the present petition.

"Sections 61 and 73, which refer to overlapping of claims, are amended to expedite the resolution of mining conflicts which constitute one of the impediments to the mining industry. Profitable mining properties are left idle due to delays in litigations over conflicting claims. The decision of the Director of Mines when affirmed by the Secretary of Agriculture and Natural Resources shall be final and conclusive and appealable only to the Court of Appeals or to the Supreme Court, as the case may be. As contemplated in the proposed amendment to Section 73, adverse claims shall be decided by the Director of Mines in accordance with Section 61 of the Mining Act, instead of leaving the matter to the Court of First Instance. Due to thousands of cases, it takes years before the court can decide a case. (Explanatory note H.B. 2522, AN ACT AMENDING SECTIONS TWENTY-FOUR, THIRTY-THREE THIRTY-FOUR, THIRTY-SEVEN, FOURTY-SEVEN, SIXTY-ONE SIXTY-TWO, SIXTY-EIGHT, SEVENTY-THREE, SEVENTY-SIX, PARAGRAPH (A), EIGHTY-ONE, EIGHTY-NINE, and NINETY-ONE, and ADDING ONE SECTION TO BE KNOWN AS SECTION SIXTY-TWO (A), OF COMMONWEALTH ACT NUMBERED ONE HUNDRED THIRTY-SEVEN, OTHERWISE KNOWN AS THE MINING ACT, AS AMENDED, Congressional Record Vol. II, Part II, May 13, 1963.

[2] Basaysay vs. Workmen's Compensation Commission, 3 SCRA 530, 533-534.

[3] Decision of the Secretary of Agriculture and Natural Resources dated Nov. 15, 1966. Brief of the Solicitor General for Respondent-appellees, dated Dec 26, 1968, pp. 4-5.

[4] Ortua vs. Singson Encarnacion, 59 Phil. 440, 444; Alejo vs. Garchetorena, 83 Phil. 924, 926.

[5] The insertion in Sec. 24 of Comm. Act 136 by Rep. Act 4388 of the proviso stating that: "A power of attorney not registered on or before the recording of this declaration of location shall make the mining claim or claims null and void," has been explained thus:

"Section 24 of the Mining Act provides that when an agent (prospector) locates mining claims in behalf of his principal, the former shall register his written power of attorney in the office of the mining recorder concerned. The requirement that the power of attorney be registered contemporaneously, with the declaration of location appears to be mandatory, but the legal effect involved is not provided if it is not followed. To avoid differences in interpretations, Section 24 of the Mining Act is amended by requiring the power of attorney to be registered on or before the registration of the claims, and failure to do so shall render the location null and void. This amendment will also discourage dummies and unauthorized locators who locate greater areas than that allowed by law." (Explanatory Note H.B. 2522, Congressional Record Vol. II, Part II, May 13, 1963).

[6] Black on Interpretation of Laws 2nd Ed. p. 122; Art 10 New Civil Code.

[7] Sec. 35 of the Mining Law provides: "The maximum area which may be acquired under a mining claim located under the provisions of this Act shall be:

* * * * *

"(b) Metals or metalliferous ores in placer deposits; not to exceed eight hectares for an individual nor sixty-four hectares for a corporation, sociedadanonima, or limited partnership: Provided, That in the case of an unincorporated association the area shall not exceed eight (8) hectares for each member, nor sixty-four (64) hectares for the entire association."

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