

BAGUIO GOLD MINING CO., PETITIONER, VS. COURT OF APPEALS, SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, THE DIRECTOR OF MINES, BERNARDO O. VALDEZ, BONIFACIO DACANAY, TEODORICO...

G.R. No. L-39460. July 18, 1991

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court filed by Baguio Gold Mining Co. (hereinafter referred to as petitioner) on 11 November 1974, seeking to review and set aside the 22 July 1974 Decision of the Court of Appeals (Special Tenth Division) in C.A.-G.R. No. 41133-R.[1]

In the assailed decision, the Court of Appeals upheld the 7 March 1968 decision of public respondent Secretary of Agriculture and Natural Resources of 7 March 1965 in DANR Case No. 2850 setting aside the decision of the Director of Mines of 8 October 1964 in Mines Administrative Case No. V-266 declaring the fourteen (14) lode mineral claims of Bernardo O. Valdez and associates (private respondents herein) valid and existing and declaring the thirteen (13) lode mineral claims of herein petitioner null and void and without effect.

The antecedent facts and proceedings which gave rise to the petition are as follows:

Sometime in June 1959, private respondents filed a protest against petitioner with the Bureau of Mines which was docketed as Mines Administrative Case No. V-266.[2] They allege therein that they are locators and claim-owners of fourteen (14) lode mineral claims situated in the Res. Sec. "D", City of Baguio (Baguio Townsite Reservation), which are properly marked and identified on the ground and in their respective declarations of location filed and registered in accordance with the Mining Act on 20 May 1959 at 1:18 P.M. in the Office of the Mining Recorder of Baguio City, a day after Presidential Proclamation No. 572, which released for mining purposes the area in question from the Baguio Townsite Reservation, was concurred in by a resolution of the Congress. Petitioner subsequently filed on 21 May 1959 in the Office of the Mining Recorder of Baguio City declarations of location of thirteen (13) lode mineral claims, which conflict with and overlap the lode mineral claims of private respondents; the conflict in, or overlapping between, their claims was brought about by the subsequent filing by petitioner of its declarations of location for the claims of the private respondents appearing in their previously registered declarations of location and as actually marked on the ground; the acts of petitioner are wrongful, prejudicial and violative of the rights of private respondents; and that should the declarations of location and subsequent application for lease of petitioner be given due course, the private respondents would sustain and incur damages.

In its answer[3] to the protest dated 13 July 1959, petitioner made admissions and denials of the allegations of the protest and, as affirmative defenses, averred that by reason of its underground mining operations conducted before and after the war on its claims immediately adjoining the area covered by Proclamation No. 572, it discovered the existence of minerals within said area and it then took the necessary steps to preserve its rights arising from such

discovery of minerals; it worked for and conducted the negotiations with the Bureau of Mines, the Office of the Secretary of Agriculture and Natural Resources, the Office of the President of the Philippines, and the Congress of the Republic of the Philippines, for the release of the area subject of Presidential Proclamation No. 572 for mining purposes; the release of the area for mining purposes was made solely for its exclusive benefit; private respondents never made any valid discovery of minerals or valid location of mineral claims within the area embraced by Presidential Proclamation No. 572; their alleged location of mineral claims and alleged registration of the declarations of location of mineral claims within such area were effected through deceit and in fraud of petitioner's rights; the conditions set out in Presidential Proclamation No. 572 made it impossible for private respondents to make a discovery of minerals in and to mine the area covered by said Proclamation.

The Home Investment Corporation filed a complaint in intervention dated 7 March 1960[4] alleging therein that on 29 June 1959, private respondent Bernardo Valdez, in his own behalf and on behalf of his associates, executed a Quitclaim wherein they transferred, assigned and conveyed unto it fifty (50) percent of any and all rights, title, claim and interest in and over the aforesaid 14 lode claims.

After due trial, the Director of Mines rendered his decision[5] dated 8 October 1964 wherein, on the basis of the following findings of facts:

"From the evidence presented, there appears to be no question that the area claimed by all the parties where they located and registered mining claims was a part of the Baguio Townsite Reservation established under the Resolutions of the then Philippine Commission dated January 25, 1907 and August 30, 1916. Being a part of a reservation which is segregated from the mass of the public domain for a specific public purpose, obviously the same is not open to mining entry and location except when released therefrom in accordance with the provisions of Section 14 of Commonwealth Act No. 137, as amended, otherwise known as the Mining Act, as amended, which read as follows:

'SEC. 14. - Lands within reservation for purpose (sic) other than mining, which, after such reservation is made, are found to be more valuable for their mineral contents than for the purpose for which the reservation was made, may be withdrawn from such reservations by the President with the concurrence of the Congress, and thereupon such lands shall revert to the public domain and be subject to disposition under the provisions of this Act.'

Pursuant to the aforequoted section of the Mining Act, and upon the request of the parties, the said area which contains 101.5980 hectares was released from the said reservation under Proclamation No. 572 signed by the President of the Philippines on April 8, 1959, and concurred in by the Congress on May 19, 1959, declaring the same open to disposition under the provisions of the Mining Act, subject to the conditions therein specified.

The evidence is clear that protestants and respondent alike located their mining claims on the contested area before the same was released from the Baguio Townsite Reservation, thus, from May 2 to 20, 1959, in the case of the protestants, and from May 9 to 20, 1959, in the case of respondent. These mining locations are, as admitted by the parties, based on mineral discoveries made years before the requisite acts of location have (sic) been performed, thus, on the part of the protestants, outcrops of gold, silica, gypsum, etc. are declared by them to have been discovered on July 15, 1957, and such discoveries made on later dates, by virtue of the authority granted to them by the Baguio City Council to search for valuable mineral deposits thereon and in line with the declared policy of the said Council to have said area explored and developed for mining purposes x x x while on the part of the respondent, its representatives discovered outcrops of gold, silver, etc., as early as January, 1947, without permission taken from the Baguio City Council or any competent authority to look for minerals thereon although at a later date (September 10, 1957), it attempted to secure such permission from the Council aforesaid but its request was denied as it appeared that the Council had already granted Bernardo O. Valdez and associates authority to explore the same area applied for by said respondent x x x.

We observe from the evidence how the protestants and the respondents tried to outwit each other in the

registration of the declarations of location of their respective mining claims, the former having presented to the Mining Recorder for Baguio City their documents twice in the afternoon of May 20, 1959, and the latter once in the same afternoon, but in all instances, said mining recorder refused to register the documents in question for the reason that the area covered thereby was not yet released for mining purposes from the Baguio Townsite Reservation, or that if the same was already released for said purpose, he was not yet officially advised on the matter. The mining recorder was right in denying the registration of the said documents for not only was he charged with official knowledge of the fact that the area embraced within the mining claims of both parties is a part of the said reservation, but that upon the fact of the documents sought to be recorded, they refer to mineral claims, the areas of each of which were applied for release from the reservation. Again, in the early morning of May 21, 1959, the representatives of both parties were in the mining recorder's Office to register the same documents. This time, as the evidence shows, said documents presented by both parties were accepted and registered without priority or preference having been given in favor of anyone of them.

It is likewise observed that the protestants and the respondents as well as the intervenor wanted to impress this Office that each has been responsible in having the contested area released from the Baguio Townsite Reservation for mining purposes. This is especially true with respect to the respondent. While we find that the respondent may have been more aggressive in its effort to accomplish the desired objective, yet it could not also be said that on its sole efforts was the objective aforesaid for, to say so, to our mind, would not be fair to the endeavors made by the other parties. However, over and above the said circumstances, it still remains in bold relief from the evidence that both the protestants and the respondent located their mining claims from May 2-20, 1959, for the protestants, and from May 9-20, 1959, for the respondent, before the area embraced therein was released from the Baguio Townsite Reservation in accordance with law. This being so, said claims cannot be considered as having been validly located for said area was not then open to mining location. And the permission granted to the protestants by the Baguio City Council to search for valuable mineral deposits in the area in question is not an authority on their part to locate the register (sic) mining claims thereon before the same is released from said reservation. The situation is more aggravated in the case of the respondent (herein petitioner), for as pointed out by the evidence and in spite of the said Council's denial to grant its request for permission, it entered said area to do mine prospecting work, make mineral discoveries, and locate and register mining claims.

It is well-settled in our jurisdiction that reservations are not open to mining entry and location for the reason, among others, that such reservations are segregated from the mass of the public domain for certain specific public purpose and as such the same cannot be appropriated for another purpose. In other words, only mineral lands of the public domain or mineral reserves open to mining location and valuable minerals in private lands except coal, petroleum and other mineral oils and gas which are governed by special laws, are free and open to exploration, occupation, location and lease by qualified persons and entities. This is an underlying rule on the basic concept of mineral lands administration and disposition ordained by the Mining Act. Sections 3 and 10 thereof are expressions of the rule aforesaid. On the other hand, Section 14 of said Act provides that lands within reservations established for purposes other than mining if found to be more valuable for their mineral contents than for the purpose for which the reservation was made shall first be withdrawn from such reservations by the President of the Philippines with the concurrence of Congress before such lands and their valuable mineral contents can be disposed of for mining purposes under the provisions of said Act. So, is Section 28 which does not allow prospecting 'in a mineral reserve which has been closed to mining locations, and in reservations established for other purposes, except by the Government'. Still other sections of the same Act envisage the same principle as they are parts of the whole fabric which form the basis of the fundamental concept of mineral lands administration and disposition stated above.

From the foregoing, it is clear that the lands on which the protestants and respondent staked and located mining claims have not yet reverted to the public domain to be free and open to exploration, occupation, location and lease at the time the acts of staking and location were performed by them. Consequently, they have not acquired any right incident to such staking and location. Such being the case, and considering the other

circumstances stated above, the mining claims registered by them are void and of no effect. Equity cannot be applied in this regard as the acts done by the parties are violative of law and that no rights could be considered born at the time and on the dates said acts were done.”

he concluded and ruled that "neither the protestants nor the respondent, much less the intervenor, can be given any right to hold and lease the area in conflict."

All parties to the case, except the intervenor Home Investment Corporation, appealed the aforesaid decision of the Director of Mines to the Secretary of Agriculture and Natural Resources. The appeal was docketed as DANR Case No. 2850 (Baguio City).

On 7 March 1965, then Secretary Fernando Lopez of the Department of Agriculture and Natural Resources rendered his decision^[6] on the appeal setting aside the decision of the Director of Mines and declaring the fourteen (14) lode mineral claims of private respondents valid and existing, while declaring the thirteen (13) lode mineral claims of petitioner null and void and without effect. In support thereof, the Secretary made the following disquisitions:

"The records of this case show that the area wherein the mining claims of Valdez, et al. and the Baguio Gold Mining Company had been located was part of the Baguio Townsite Reservation. However, the area was released by Presidential Proclamation No. 572 and was concurred in by a resolution of Congress adopted on May 19, 1959. According to the declarations of mining location filed by appellants, Valdez, et al. located their claims from May 2-20, 1959 while the Baguio Gold Mining Company located its claims from May 10-20, 1959.

Considering these facts, although the locations of mining claims of appellants were done largely at a time when the area was not yet released, the locations were concluded or finished two days after the area was already released for mining purposes. Such being the case, this Office is inclined to validate the locations of appellants. Bearing in mind the time, efforts and money spent by the locators, it is more just and equitable to consider the locations of some importance rather than disregard them altogether which will serve no purpose at all. To declare the area open for subsequent prospectors will be giving way to more conflict. Besides to give a more liberal interpretation of the provisions of the Mining Law on locations, as in this particular case, would not prejudice anybody's right nor would it run counter to the interest of the state.

Be this as it may, however, after declaring the mining locations of appellants valid there is another issue that necessarily follows. This issue is the question of preferential right among appellants herein which, as a matter of fact, is the same issue raised when Bernardo Valdez, et al. filed their protest on June 21, 1959 against the thirteen (13) mining claims of Baguio Gold Mining Company resulting in this case.

In the protest of Valdez, et al. filed in the Bureau of Mines, they alleged preference (sic) right to lease the area in question on the ground that the filing of the 13 declarations of location by the respondent Baguio Gold Mining Company was subsequent to the filing of their 14 mining locations. The claims of protestants overlap and are in conflict with those of respondent.

Examining the declarations of location filed by protestants and respondent in the Office of the Mining Recorder in Baguio City, it appears that the 14 declarations of locations filed by protestants were received in the Office of the Mining Recorder at 1:18 P.M., May 20, 1959, which was duly stamped at the upper left hand margin of the declarations. On the other hand, the 13 mining declarations of location filed by respondent Baguio Gold Mining Company were received at 4:30 P.M., also on May 20, 1959, in the Office of the Mining Recorder of Baguio. Said time and date was (sic) also duly stamped on the upper left hand margin of the declarations filed. These declarations of location, however, were not immediately recorded or registered. All of them were recorded at the same time the following day May 21, 1959 at 8:00 o'clock in the morning.

From the foregoing, it is obvious that protestants Valdez, et al. have a prior right as against respondent Baguio

Gold Mining Company. Section 56 of the Mining Act (C.A. No. 137) provides:

'All declarations of location, affidavits, power of attorney, and all other documents or instruments in writing, regarding or affecting the possession of mining claims or any right or title thereto, or interest therein, shall be recorded by the mining recorder in the order in which they are filed for record, and from and after such recording, all such documents or instruments in writing shall constitute notice to all persons and to the whole world of the contents of the same.'

The declarations of location of Valdez, et al. should therefore be considered filed prior to those of Baguio Gold Mining Company and as the filing of the declarations of location by Valdez, et al. was several hours ahead of the filing by Baguio Gold Mining Company, the latter was bound to know of the previous claim of the former. Consequently, the subsequent acceptance and registration of the declarations of location by Baguio Gold Mining Company should be considered as of no effect.

Respondent Baguio Gold Mining Company contends that it has been instrumental in the release of the area in question for mining purposes. Granting for the sake of argument that this is true, the mining law gives no preference (sic) right for efforts of this kind.

This Office had observed that from the evidence on record, Baguio Gold Mining Company made its declarations of locations based on its exploitation of its mining claims adjacent to the area in question in 1947. The Company assumed that the vein of their old claim extend (sic) toward the area in question. Section 33 of the Mining Law provides that within 30 days from discovery of mineral, the discoverer or locator must locate his claim otherwise, he would be considered to have waived his right thereto. In the instant case Baguio Gold waited for several years before making its declarations of location."

Unsatisfied with the decision, petitioner filed on 19 April 1968 a petition for review with the Court of Appeals, which was docketed therein as C.A.-G.R. No. 41133-R. In its Memorandum of Arguments,[7] it submits the following errors as having been committed by the Secretary of Agriculture and Natural Resources:

"[A] Respondent Honorable Secretary of Agriculture and Natural Resources erred in holding that the 14 lode mineral claims of respondents Bernardo O. Valdez, Bonifacio Dacanay, Teodorico S. Serafica, Antonio Ramos, Dominador Lacsamana, Fructuoso O. Valdez, Leonardo O. Valdez, and Silvino Oplencia are valid.

[B] Respondent Honorable Secretary of Agriculture and Natural Resources erred in holding that the declarations of locations of the mining claims of respondents Bernardo O. Valdez, Bonifacio Dacanay, Teodorico S. Serafica, Antonio Ramos, Dominador Lacsamana, Fructuoso O. Valdez, Leonardo O. Valdez, and Silvino Oplencia were registered with the Mining Recorder of Baguio City prior to the registration with the same Mining Director of the declarations of locations of the 13 mining claims of petitioner.

[C] Respondent Honorable Secretary of Agriculture and Natural Resources erred in giving the preferential right to lease the mining area involved to respondents Bernardo O. Valdez, Bonifacio Dacanay, Teodorico S. Serafica, Antonio Ramos, Dominador Lacsamana, Fructuoso O. Valdez, Leonardo O. Valdez, and Silvino Oplencia as against the petitioner despite the patent incapacity of said respondents Bernardo O. Valdez, Bonifacio Dacanay, Teodorico S. Serafica, Antonio Ramos, Dominador Lacsamana, Fructuoso O. Valdez, Leonardo O. Valdez, and Silvino Oplencia to comply with the conditions set forth in the Presidential Proclamation No. 572.

[D] Respondent Honorable Secretary of Agriculture and Natural Resources erred in declaring that the 13 lode mineral claims of petitioner were null and void."

In its resolution of 27 December 1968,[8] the Court of Appeals declared the petition as one for review and not as a special civil action for certiorari or an ordinary appeal and directed the Department to elevate to it the original record of the case, the transcript of stenographic notes, the exhibits, the minutes and the list of exhibits in order

for the Court to determine whether the conclusions drawn by the Secretary from facts established are correct or erroneous.

In its challenged decision[9] of 22 July 1974, the Court of Appeals, on the basis of the following observations and conclusions:

x x x

"The Secretary of Agriculture and Natural Resources found 'that the 14 declarations of locations filed by protestants were received in the Office of the Mining Recorder at 1:18 P.M May 20, 1959, which was duly stamped at the upper left hand margin of the declaration.' A cursory examination of the declarations of location of the protestants, private respondents herein, shows that said declarations were all received by the Mining Recorder of Baguio City on May 20, 1959 at 1:18 o'clock in the afternoon, (Exhs. "G-a","G-1-a" to "G-13-a").

It was also found by the Secretary of Agriculture and Natural Resources that the declarations of location filed by Baguio Gold Mining Company, petitioner herein, were received at 4:30 p.m., also on May 20, 1959, in the Office of the Mining Recorder of Baguio. Again on examination of the thirteen (13) declarations of location filed by Baguio Gold Mining Company reveals that all said declaration (sic) were received at the Office of the Mining Recorder of Baguio on May 20, 1959 at 4:30 in the afternoon, (Exh. "5-A" to "17-A", inclusive). It is thus seen that the findings of facts of the Secretary of Agriculture and Natural Resources on the time and date of the filing of the declarations of location by protestants, private respondents herein, and by the Baguio Gold Mining Company, petitioner herein, are supported by the indubitable documentary evidence.

The conclusion of the Secretary of Agriculture and Natural Resources that protestants Valdez, et al. have a prior right as against Baguio Gold Mining Company, petitioner herein, is supported by Section 56 of the Mining Act, Commonwealth Act No. 137 which provides:

'All declarations of location, affidavits, power of attorney, and all other documents or instruments in writing, regarding or affecting the possession of mining claims or any right or title thereto, or interest therein, shall be recorded by the mining recorder in the order in which they are filed for record, and from and after such recording, all such documents or instruments in writing shall constitute notice to all persons and to the whole world of the contents of the same.'

The act of the Mining Recorder in stamping all the declarations of location filed by the protestants, private respondents herein, and Baguio Gold Mining Company, petitioner herein, as received on May 21, 1959 at 8:00 o'clock in the morning is of no moment because such act is not only belied by the record itself but is contrary to law.

The contention of the petitioner, Baguio Gold Mining Company, that it has been instrumental in the release of the area in question for mining purposes was correctly brushed aside by the Secretary of Agriculture and Natural Resources with the statement that, 'Granting for the sake of argument that this is true, the mining law gives no preference (sic) right for efforts of this kind.'

It is a fact that within thirty (30) days from the alleged discovery of minerals by the petitioner in 1947, it could not validly locate the thirteen lode mineral claims because at that time the area was still within the Baguio Townsite Reservation.

The contention that no locator other than the petitioner Baguio Gold Mining Company can comply with the condition that 'exploration and later mining or extraction of the ore should not be made at any point less than 600 feet downward from the surface' has no factual basis and is irrelevant to the resolution of the petition for review."

ruled that the decision of the Secretary of Agriculture and Natural Resources is supported by the evidence and is in accordance with law; hence, it denied the petition.

Its motion for reconsideration[10] having been denied by the Court of Appeals in its resolution[11] of 27 September 1974, petitioner filed the instant petition on 11 November 1974 wherein it raises the following issues:

“I

WHETHER OR NOT THE PREFERENTIAL RIGHT TO LEASE MINING CLAIMS SHALL BE DETERMINED SOLELY BY THE TIME OF PRESENTATION TO THE MINING RECORDER OF DECLARATIONS OF LOCATION OR SHALL IT BE DECIDED BY THE PRIORITY OF DISCOVERIES AS PROVIDED BY SECTION 32 OF COMMONWEALTH ACT NO. 137.

II

WHETHER OR NOT IN THE INSTANT CASE, PROCLAMATION NO. 572, WHICH RELEASED THE DISPUTED AREA TO MINING EXPLOITATION, SHOULD ALSO BE CONSIDERED IN DECIDING THE CONFLICT OF MINING CLAIMS.”[12]

It argues that (a) it should be given preferential right because under Section 32 of the Mining Act which reads:

"SEC. 32. In case of conflicting locations, priority of discovery, followed by continuous occupation and prospecting of the land, shall determine the right to lease the claims, subject to any question as to the validity of the location and record of the claim and subject to the holder's having complied with all the requirements of the law: Provided, however, That actual discovery of minerals made prior to the effective date of this Act, before or after the enforcement of the Constitution, shall constitute a valid discovery, and the persons making such discovery shall have the preferential right to locate and lease the mining claims covering the minerals discovered, subject to the provisions of this Act."

it has not only the priority of discoveries, followed by continuous prospecting of the land, but also its locations are valid and recorded; it has complied with all the requirements of the Mining Law; and Section 56 thereof should not be relied upon in giving preferential rights to lease mining claim; and (b) considering the conditions imposed in Proclamation No. 572, only the petitioner would be physically and legally qualified to explore and later mine or extract ore from the area since it alone would have access to mine and stake the claims in the area released inasmuch as it has mining properties which adjoin the area in question and where tunnels have been driven in different levels to follow up the rich mineral veins which also go to the area in question; upon the other hand, private respondents had no area to place a mill for the mining or extraction of the ore below 600 feet from the surface because that area of 600 feet below the surface of the area in question is petitioner's mining territory and not open to placement of milling plants.[13]

In Our resolution of 15 November 1974,[14] We required respondents to comment on the petition.

Private respondents filed their Comment on 17 December 1974,[15] to which a Reply was filed by petitioner on 26 December 1974.[16]

The public respondents, through the Office of the Solicitor General, filed their Comment on 5 February 1975;[17] they sustained the decision of the Court of Appeals. Without prior leave, petitioner filed on 14 February 1975 a reply[18] to the comment of the Solicitor General.

The parties thereafter filed their respective Briefs.

There is merit in the petition; however, We cannot grant the prayer of petitioner that We declare that its thirteen

(13) lode claims be preferred to the fourteen (14) lode claims of private respondents. We are of the opinion, and so hold, that the decision of the Director of Mines of 8 October 1964 in Mines Administrative Case No. V-266 is correct and that the decisions of the Secretary of Agriculture and Natural Resources of 7 March 1968 in DANR Case No. 2859 and the Court of Appeals of 22 July 1974 in C.A.-G.R. No. 41138-R fail to consider the legal implications of Proclamation No. 572 on the discoveries and locations made before it was concurred in by the Congress, and the validity of the registration of the claims of the parties on 20 May 1959. Furthermore, the Secretary acted without jurisdiction or with grave abuse of discretion in validating acts of location made prior to the Congressional concurrence.

There is no dispute as to the fact that the lode mineral claims of petitioner and that of private respondents are situated within the Baguio Townsite Reservation established under the Resolutions of the then Philippine Commission of 25 January 1907 and 30 August 1916. Therefore, as correctly noted by the Bureau of Mines in its aforesaid decision:

"x x x Being a part of a reservation which is segregated from the mass of the public domain for a specific public purpose, obviously the same is not open to mining entry and location except when released therefrom in accordance with the provisions of Section 14 of Commonwealth Act No. 137, as amended, otherwise known as the Mining Act, as amended. x x x." [19]

Under said Section 14:

"Lands within a reservation for purposes other than mining, which, after such reservation is made, are found to be more valuable for their mineral contents than for the purpose for which the reservation was made, may be withdrawn from such reservations by the President with the concurrence of the Congress, and thereupon such lands shall revert to the public domain and be subject to disposition under the provisions of this Act."

Section 28 of the same Act, as amended by R.A. No. 746, [20] disallows prospecting in "mineral reserves which had been proclaimed closed to mining locations, and in reservations established for other purposes, except by the Government."

On 18 April 1959, the President of the Philippines signed Proclamation No. 572 releasing from the Baguio Townsite Reservation an area of 101.5980 hectares and declaring said area open to disposition under the provisions of the Mining Act, subject to the conditions therein provided. [21]

The Proclamation expressly provides that it shall take effect only upon the concurrence of Congress, which was subsequently given in its Resolution of 19 May 1959.

Conformably then with Section 14, in relation to Section 28, of the Mining Act, it was only after 19 May 1959 that the area where the subject claims of the petitioner and the private respondents are located was withdrawn from the reservation and reverted to the public domain for disposition under the provisions of the Mining Act. Disposition in favor of any party presupposes compliance by said party with prior requisite acts such as exploration and prospecting for mineral deposits, [22] discovery of mineral deposits and location of mining claims. [23] It was only after such withdrawal and reversion that any of such acts could be validly and lawfully done. It logically follows then that the so-called discoveries of minerals and acts of location made within the area and done and performed by both petitioner and private respondents before 19 May 1959, as summarized in the decision of the Director of Mines, had no valid legal effects and were in fact void ab initio as they were done within and inside a reservation which was not open to mining entry and location, thus in clear violation of the law.

The protest of private respondents alleges that each of the fourteen claims was "located" by the individual claimants on May 2-20, 1959, [24] and properly marked on the ground and in their respective declarations. The areas of the claims range from .0780 hectares to 9 hectares. Seven (7) of the claims are, coincidentally, 9 hectares,

more or less, each; while two are, also coincidentally, 8.4000 hectares each. As found by the Director of Mines, the discoveries of the minerals in said claims were made in 1957.

Upon the other hand, petitioner's evidence established that the staking and location of its mining claims began on 9 May 1959 and was completed on 20 May 1959; it admitted that it adopted for the purpose the mineral "discoveries" made in 1947.[25]

We are not prepared to accept the claims of petitioner and private respondents as to the period of time they located their mining claims (May 9-20, 1959, in respect to petitioner, and May 2-20, 1959, in respect to each of the private respondents). Since, as asserted by petitioner, its discoveries of the minerals dated as far back as 1947 and, as asserted by private respondents in their case, as far back as 1957, by virtue of the authority granted to them by the City Council of Baguio, and each group had claimed to have worked for the release of the area from the reservation, it is logical to presume that they also immediately performed all the requisite acts of location. But both parties were fully aware that to claim or admit the conduct of locations earlier than 20 May 1959 would be fatal to their cause. Were it otherwise, they could have simply indicated much earlier dates considering that their "discoveries" were made years back. It was then necessary, if not indispensable, that there be a showing that the locations were completed after Congress passed the concurring resolution. It is not therefore surprising that both petitioner and private respondents, without any prior agreement, were one in designating 20 May 1959 as the date of the completion or conclusion of the location -- just a day after Congress enacted the resolution. Since priority of registration was of utmost importance for a preferential right, 20 May 1959 was the earliest available date which must, nevertheless, be reflected as the end of the acts of locations to give a semblance of truth to the claim that such acts continued until said date. Both rushed to the Office of the Mining Recorder in the afternoon of that day. They did not do so in the morning as the entry of 20 May being the termination of the location would become obviously suspect. Indeed, if the declarations were submitted for filing in the morning, no reasonable mind can accept that acts of locations were indeed done up to 20 May 1959, taking into account the requirements for the completion of the declarations.

As picturesquely described by the Director of Mines, "protestants and the respondent tried to outwit each other in the registration of the declarations of location of their respective mining claims." [26] Stated elsewhere, the good faith of both parties is placed in serious doubt.

The conclusion is inevitable that neither petitioner nor private respondents made staking and locations of mining claims within the released area after 19 May 1959 and that the declarations they registered were based on void or invalid discoveries or locations since they took place before the release of the subject area from the Baguio Townsite Reservation. Neither then acquired any valid right over their respective mining claims and the registrations thereof are invalid or void from the beginning. Apropos this point, We cannot divine at the logic of both the Secretary and the respondent Court of Appeals when, in furtherance of their postulations that petitioner does not have a preferential right, they considered its failure to locate its claim within thirty (30) days from discovery in 1947 as a waiver of its right thereto pursuant to Section 33 of the Mining Law, and yet it did not apply the rigors of said section to the private respondents who also claimed to have made discoveries in 1957 but made no location within thirty days thereafter. Both parties, having admitted that their locations were made only in May of 1959, must equally suffer the same fate.

Finally, the Secretary of Agriculture and Natural Resources acted without jurisdiction or gravely abused his discretion in validating the locations of the petitioner and the private respondents based on the following reasons:

"x x x Bearing in mind the time, efforts and money spent by the locators, it is more just and equitable to consider the locations of some importance rather than disregard them altogether which will serve no purpose at all. To declare the area open for subsequent prospectors will be giving way to more conflict. Besides to give a

more liberal interpretation of the provisions of the Mining Law on locations, as in this particular case, would not prejudice anybody's right nor would it run counter to the interest of the state."

He does not have any authority to validate acts clearly done in violation of the Mining Act itself. If there had been any intention on the part of the State to validate acts of exploration and prospecting, discovery of mineral deposits and location of mining claims within the Baguio Townsite Reservation before the issuance of Proclamation No. 572, then the latter should have so expressly provided.

The foregoing renders unnecessary any discussion on the issues raised in this petition.

WHEREFORE, the Decision of the Court of Appeals of 22 July 1974 in C.A.-G.R. No. 41133-R is hereby REVERSED and SET ASIDE and the Decision of the Director of Mines of 8 October 1964 in Mines Administrative Case No. V-266 is REINSTATED.

No pronouncements as to costs.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

[1] Per then Associate Justice Ramon C. Fernandez, and concurred in by Associate Justices Godofredo P. Ramos and Francisco Tantuico, Jr.

[2] Annex "A" of Petition; Rollo, 64-67.

[3] Annex "B" of Petition; Rollo, 68-73.

[4] Annex "C" of Petition; Rollo, 74.

[5] Annex "E" of Petition; Id., 85-93.

[6] Annex "H" of Petition; Rollo, 122-124.

[7] Annex "F" of Petition; Rollo, 127, et seq.

[8] Annex "I" of Petition; Rollo, 153, et seq.

[9] Annex "J" of Petition; Rollo, 155-168.

[10] Annex "K" of Petition; Rollo, 182-186.

[11] Annex "M" of Petition; Id., 191.

[12] Id., 18.

[13] Rollo, 29-30.

[14] Id., 201.

[15] Rollo, 205.

[16] Id., 212.

[17] Id., 236.

[18] Id., 246.

[19] Rollo, 49.

[20] It took effect on 18 June 1952.

[21] Published in the 20 April 1959 issue of the Official Gazette, vol. 55, no. 16.

[22] Sections 24, 26, and 27, Mining Act.

[23] Sections 29-63, inclusive, *op. cit.*

[24] Rollo, 64-65.

[25] *Id.*, 88.

[26] Rollo, 91.

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