

**BROOKE D. CADWALLADER AND MARY D. CADWALLADER,
PETITIONERS, VS. HONORABLE JESUS V. ABELEDA AS JUDGE OF THE
COURT OF FIRST INSTANCE OF MARINDUQUE AND SANCHO
REGINIO AND FLORENTIN...**

G.R. No. L-31927. June 25, 1980

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for certiorari and prohibition to annul and set aside the order dated March 13, 1970 of the Court of First Instance of Marinduque in its Civil Case No. 1489 entitled Sancho Reginio et al. vs. Mary Cadwallader et al., denying the motion to dismiss, based on several grounds, filed therein by defendants, herein petitioners and to enjoin respondent judge from further taking any action in said case, both remedies being based on alleged want of jurisdiction of respondent court inasmuch as, according to said petitioners, the subject matter thereof is a conflict or dispute arising out of mining locations, over which pursuant to Section 61 of Republic Act 4388, amending Republic Act 746 and Commonwealth Act 137, jurisdiction belongs primarily or in the first instance to the Bureau of Mines with the right of appeal to the Secretary of Agriculture and Natural Resources (now Ministry of Natural Resources) and only thereafter another right of review by the courts.

This controversy between the Cadwalladers and private respondents Reginio and Pilar may be traced back to May 26, 1958, when private respondent Reginio, together with others hereafter to be named, filed with the Director of Mines an adverse claim against the lease application of the Cadwalladers for the mineral claims denominated as ANA, AVA, BATA, BUYO, BURI, ALTO and AGOHO, practically, if not the very same ones involved in the complaint in aforementioned Civil Case No. 1489:

"651 Highway
Pasay City

May 26, 1958

The Director
Bureau of Mines
Manila

S i r :

We hereby file this protest against the registration and survey of the lode mineral claims denominated ANA, AVA, BATA, BUYO, BURI, ALTO and AGOHO of Mr. Brooke Cadwallader and Mrs. Mary Cadwallader of Manila on the ground that the said Mining Claims fall within the Forest Reservation Block-T, Sta. Cruz, and Block-C, Boac, Marinduque.

In this connection, we wish to advise that we, acting thru a representative, Mr. Sancho Reginio, applied for the release of said reservations as per letter, dated March 27, 1958, to the Bureau of Forestry, a copy attached. The

mining claims involved of the Medrey Group and Associates namely M2, M3 and M6; L2 and L3; A1 and P2, P3, P5, P6, E1 and E2, were staked and validly located in the names of B.R. Medrano, I.R. Medrano, V. A. Medrano and C. R. Medrano, respectively, and were duly registered with the Mining Recorder of the province of Marinduque. The above named representative is a co-claim owner of the said mining claims since he was instrumental in the discovery and staking of the claims.

During the prospecting, staking and location of the said mining claims the representative was not aware that the areas were inside the Forest Reservation, nor did he see any signs, placards, posts, or any other evidence that somebody has claimed the area. We did not cause the execution of any lease survey of the said Mining Claims because careful study and researches disclosed that most of the mining claims above mentioned fall within the Forest Reservation Block-T and Block-C as shown in the attached copy of tracing form FR-78 Bureau of Forestry Map under Proclamation, dated February 11, 1938 of the President of the Philippines. Likewise, attached hereto is a sketch plan of said mining claims showing the overlapping claims and the position thereof in the Forest Reservation Block-T and Block-C, province of Marinduque.

"We also wish to advise that we have introduced developments on said properties and have invested thousands of pesos already. We had sent geologists, namely, Mr. Generoso Lazaga of the Bureau of Mines and Mr. T. Oshima, a Japanese geologist, to inspect the properties, and provided them our representative to act as guide.

In view of the fact that the areas covered by the claims of the Cadwalladers fall within existing Forest Reservations and considering the fact that the Medrey Group and Associates have applied for release of said areas from forest reservation as mentioned above, we vehemently protest against the registration, survey and approval of the Cadwallader Group mining claims.

According to Section 28 of the Mining Act, quote 'No prospecting shall be allowed: (a) In a mineral reserve which has been proclaimed closed to mining locations and in reservations established for other purposes, except by the Government'. More-over, in the reply, dated March 12, 1954 to the inquiry, dated March 2, 1954, made by our representative to the Director of Mines, the latter after quoting Section 14 of the Mining Act, concluded 'In view of the foregoing, unless and until the mineralized portion of said reservation is withdrawn therefrom, all mining locations made thereon are null and void and of no legal effect.' The acts of the Cadwalladers in the areas in question fall equally within the conclusion aforesaid and accordingly same have no legal effect. For our part, application had already been made for the release of the area from the Forest Zone.

Additionally, we wish to advise that portions of the land embraced by the AGNAS and ALTO mineral claims of the Cadwalladers are in the possession of our representative. The Cadwalladers have not secured any written permission to enter upon the same, in accordance with Section 27 of the Mining Act. These properties are located in the barrio of Labo, Sta. Cruz, Marinduque, and are covered by tax declaration Nos. 25120 and 25121.

In the event that the area referred to herein be declared outside of the forest reserve, preferential rights over the area should be given the claims of the undersigned for the following reasons:

1. The Cadwalladers have not, and could not have, acquired any rights over the area;
2. That the registration made by the Cadwalladers was accomplished prior to staking and location of their claim, which is contrary to the provisions of the Mining Act; and
- "3. That at the time of the staking of their supposed claims by the Cadwalladers, the herein protestants had already staked, validly located and registered the area with the Mining Recorder.

"In truth of the above allegations, we the protestants have signed this protest under oath, this 27th day of May, 1958, at Manila, Philippines.

(Sgd.) B. R. MEDRANO

(Sgd.) VICENTA MEDRANO

(Sgd.) I. R. MEDRANO

(Sgd.) CONSUELO MEDRANO

(Sgd.) SANCHE REGINIO"

(Annex C, pp. 548-549, Record.)

This protest was overruled on June 11, 1958 by the Director of Mines thus:

"June 11, 1958

Messrs. Sancho Reginio, B.R. Medrano
Vicenta Medrano, I.R. Medrano & Consuelo Medrano
c/o Mr. B. R. Medrano
651 Highway 54, Pasay City

S i r s :

"With reference to your sworn letter dated May 26, 1958, protesting against Lode Lease Applications Nos. V-2376, V-2642 and V-2375 of Mr. Brooke D. Cadwallader and Mrs. Mary D. Cadwallader covering their 'Alto', 'Agoho', 'Agnas', 'Bata', 'Buri', 'Buyo', 'Ana' and 'Ava' mining claims located in the barrio of Labo, municipality of Sta. Cruz, province of Marinduque, please be informed that the last date of publication of the notices of said applications under the provisions of Section 72 of the Mining Act, as amended, was on May 27, 1958. As your adverse claim was filed on May 28, 1958, it follows that the same was filed out of time.

"With respect to the allegation in your adverse claim to the effect that the said mining claims are inside a forest reserve, please be informed also that in a certification issued by the Director of Forestry on February 22, 1958, the mining claims in question do not affect any established forest reserve, national park, communal forest or communal pasture.

"In view of the foregoing, it is regretted that this Office cannot favorably entertain your adverse claim.

Very truly yours,

For the Director of Mines:

(Sgd.) ROQUE B. HEBRON
Chief Legal Officer"

(Annex D, p. 553, Rec.)

After being thus rebuffed, private respondents lost no time in filing with the same-herein-now-respondent court on June 26, 1958 Civil Case No. 1125, entitled Bienvenido R. Medrano, Iluminado R. Medrano, Vicenta Medrano, Consuelo Medrano and Sancho Reginio (the first four being Reginio's co--signers of the above letter of May 26, 1958) vs. Brooke Cadwallader and Mary Cadwallader. In their complaint in that case, plaintiffs alleged as cause of action the following:

"2. That plaintiffs are the registered claimants-locators of several mining lode claims situated in the municipalities of Sta. Cruz and Boac, Marinduque, among which are the Mining Lode Claims denominated M2, M3, M6, L2, L3, A1, P2, P3, P5, P6, E1 and E2.

"3. That defendants Brooke Cadwallader and Mary D. Cadwallader have filed with the Bureau of Mines Lease

Application Nos. V-2376, V-2642 and V-2375, respectively, covering Mining Lode Claims denominated 'ANA', 'AVA', 'ALTO', 'AGOHO', 'AGNAS', 'ABRIT', 'BATA', 'BUYO' and 'BURI', situated in Barrio Labo, Sta. Cruz, Marinduque.

"4. That the afore-mentioned mining lode claims of defendants Brooke Cadwallader and Mary Cadwallader covered by the said Lease Applications overlap the Mining lode claims of plaintiffs, denominated M2, M3, M6, L2, L3, A1, P2, P3, P5, P6, E1, E2. Sketch plan of the said mining claims is hereto attached as Annex 'A', showing the extent and boundaries of the overlapping mining claims of plaintiffs and defendants.

"5. That the plaintiffs' afore-mentioned mining lode claims, which overlap the mining claims of the defendants covered by Lease Application Nos. V-2376, V-2642 and V-2375, were validly discovered, located, and registered with the Mining Recorder of Marinduque previous to the registration of the said mining claims of the defendants.

"6. That the registration of the aforementioned mining claims of the defendants, which was made long after the discovery location and registration of the mining claims of the plaintiffs, is invalid and without effect, because they were made prior to the discovery and location of their said claims in violation of the requirements of the Mining Law." (Pages 24-25, Rec.)

But evidently, upon securing from each other mutual concessions, on February 26, 1959, the parties filed a joint motion to dismiss as follows:

"JOINT MOTION TO DISMISS

"COME NOW the parties in the above-entitled case, by and through their undersigned counsel, and to this Honorable Court respectfully state:

"That the parties have this date arrived at an amicable settlement of this case and the plaintiffs and defendants, for a good and valid consideration, waive, renounce, and forever release and discharge each other from all claims and counterclaims in the com-plaint which have arisen, or may arise out of or in connection with the subject matter of the litigation.

"WHEREFORE, it is respectfully prayed that this case be dismissed without pronouncement as to costs.

"Manila, for Boac, Marinduque, February 26, 1959.

WILLIAM H. QUASHA & ASSOCIATES

By:

(SGD.) ROSALIO DE LEON

(SGD.) V. E. DEL ROSARIO

Counsel for the Defendants

Counsel for the Plaintiffs

4th Floor, Hongkong Bank Bldg.

205-207 Escolta Bldg.,

117 Juan Luna, Manila

Escolta, Manila"

(Page 27, Rec.)

and, accordingly, on March 9, 1959, the court issued the following order:

"O R D E R

"On joint motion of the parties praying for the dismissal of this case without special pronouncement as to costs on the ground stated in said motion, the Court considering the same to be well founded, hereby dismisses this case without pronouncement as to costs.

"IT IS SO ORDERED." (Page 28, Rec.)

It is alleged by petitioners and not denied by respondents that although herein respondent Pilar was not a party in Civil Case No. 1425, "considering that claims P-2 and P-6, which are subject of the present case, were covered by the complaint in that first case, it does not matter that the said claims are now being claimed by plaintiff Pilar who was not a party to (the) previous case because the fact remains that plaintiff Reginio was the registered agent and attorney-in-fact of plaintiff Pilar in effecting the latter's mining locations and registration of claims P-1 to P-10." (Annex F of petition, p. 3.) With the above dismissal of Case No. 1125, petitioners must have naturally assumed that respondents' quest for the claims in question had ended.

More than ten years later, however, or more specifically, on November 30, 1969, to petitioners' surprise, the action now at issue was filed. For ready reference, the pertinent allegations of the second complaint may be quoted thus:

"3. That on September 8, 1958, plaintiff Sancho Reginio, filed with the Bureau of Mines, Manila, a request for Certification that the area consisting of 200 hectares within the Marinduque Forest Reservation situated in the Barrio of Labo, Sta. Cruz, Marinduque, and in the Barrio of Jinapulan, Boac, Marinduque, consisting of 100 hectares, more or less, and definitely defined as Block T, Project No. 5, and Block C, Project No. 1, Marinduque Forest Reserve Map. F. R. 78 of the province of Marinduque, indicated in the attached sketch plan as those areas covered and designated as San 1 to San 12, inclusive, and which sketch plan is hereto attached and made part of this complaint as Annex 'A'; is more valuable for mining purposes than that for which the reservation was then made;

"4. That plaintiff Sancho Reginio having learned that the areas embraced in his mining claims then is within the areas covered by Proclamation No. 258 dated February 11, 1938, reserving the entire areas as a forest reserve, desisted from further developing and continuing his said mining claims on the plain and simple reason that, any such development, or exploitation, during the effectivity of the reservation as a Forest Reserve is void, illegal and of no effect. However, said plaintiff, sometime on March 27, 1958, wrote the Director of the Bureau of Forestry, Manila, petitioning the release of the said reserved Forest lands. A Xerox copy of the said communication is hereto attached and made part hereof as Annex 'B';

"5. That said plaintiff even before filing his mining claims, since 1957, had staked, surveyed, spent, and contracted local and foreign geologists, to study, evaluate, examine; assay the mineral deposits found therein, as well as, to hire the services of mining experts, mining technicians, and workers to appraise the mining potentialities in the area, culminating in said plaintiff's formally and officially filing his said application as far back as 1957;

"6. That, subsequently, defendants Brooke D. Cadwallader and Associates, during the effectivity of the said Proclamation No. 258, and while the said area is still a Forest Reservation, filed their corresponding mining claims on the areas presently covered and designated as:

Agnas; Alto; Agoho; Buyo; Bata; Abri; Ava; Buri; Ana; Bunan; Aveng; Buhi; Alola; Apud; Bilton; Bulan; Banga; Akal; Balogo; Bonot; Labo-1; Daniel-1; Daniel-2; Venus-1; Venus-2; Arturo-1; Arturo-2; Luna-1; and Luna-2.

"7. That despite the congenital invalidity of the Cadwalladers' mining claims as expressly provided for by the

Mining Law (please refer to Sec. 28 of Act 137), the said mining claims were given due course by the respondents Director of the Bureau of Mines and the Secretary of Agriculture and Natural Resources and their approval dates are as follows:

NAME OF CLAIMS

DATE APPROVED

Alto

June 3, 1959

Agoho

-do-

Ana

-do-

Ava

-do-

Agnas

-do-

Abri

-do-

Bata

-do-

Buri

-do-

Buyo

-do-

Apud

October 10, 1965

Avang

-do-

Alola

-do-

Bulan

-do-

Bonot

-do-

Banga

-do-

Buhi

-do-

Balogo

-do-

Bunan

-do-

Acal

-do-

Biton

-do-

"Labo-1; Daniel-1; Daniel-2; Venus-1; Venus-2; Arturo-1; Arturo-2; Luna-1; and Luna-2, have not yet been approved but already surveyed;

and which on the latter dates, the above enumerated mining claims, despite their obvious illegality, were given and/or extended mining leases by the Department of Agriculture and Natural Resources through respondent Director of the Bureau of Mines;

"8. That the areas covered by the Forest Reservation as delineated under Proclamation No. 258 were only on March 15, 1967, by Executive Proclamation No. 181 concurred in jointly by the Congress of the Philippines on May 17, 1967, withdrawn from the forest reservation and made subject to the disposition of the Mining Act as amended;

"9. That on March 17, 1969, the mining claims of plaintiff Sancho Reginio, on the areas known and designated as San 1 to San 12, inclusive, as shown by the certified true copies hereto attached and made part of this complaint as Annexes 'C', 'C-1' to 'C-11', inclusive; and, that of the plaintiff Florentino Pilar on the areas known and designated as P-1 to P-10, inclusive, as shown by certified true copies hereof likewise hereto attached and made part of the complaint as Annexes 'D', 'D-1' to 'D-9', inclusive, were filed and registered with the Mining Recorder, Boac, Marinduque;

"10. That the above listed mining claims of the defendants Brooke D. Cadwallader and associates as verily shown by the sketch plan (Annex A) hereto attached, are precisely, the same areas and mining claims of the plaintiffs which falls within the former Forest Reservation;

"11. That defendants Brooke D. Cadwallader and Associates, for their own sole benefit and advantage, and to the grave damage, injustice, and prejudice of the plaintiffs, are presently causing the development, exploitation, and extraction of the mineral deposits herein situated with their claims assigned to Marcopper Mining Corporation as their share in the capital stock of said mining corporation;

"12. That, sometime in 1969, plaintiffs, filed an application with the Bureau of Mines for the lease survey of their mining claims but the same were disapproved on the ground that the area covered by the Cadwalladers' claims and lease contract which are congenitally legally void and of no force and effect;

"13. That the unreasonable, illegal, and unjust refusal of the defendants, to acknowledge the validity and propriety of plaintiffs' rights and interests over the aforesated mining claims despite the congenital legal invalidity of said defendants Cadwalladers' Mining Lease Surveys and Contracts, have caused plaintiffs actual damages and likewise, to suffer moral damages by way of mental tortures, anxiety and embarrassments, in an amount as may be determined by the Honorable Court;

"14. That plaintiffs, in order to protect their rights, property, and interests over all the mining claims in question, are compelled to litigate and, to hire the services of counsel at the agreed contingent amount equal to 25% of whatever amount in money and properties that may be recovered by the plaintiffs herein." (Pages 8-10, Record.)

The defendants Cadwalladers filed on December 12, 1969, a motion to dismiss on the following grounds:

I

"THAT THIS HONORABLE COURT HAS NO JURISDICTION OVER THE SUBJECT OF THE ACTION

AND/OR NATURE OF THE SUIT.

II

"THAT THE COMPLAINT STATES NO CAUSE OF ACTION.

III

"THAT PLAINTIFFS' CAUSE OF ACTION, IF ANY, IS BARRED BY THE STATUTE OF LIMITATIONS.

IV

"THAT PLAINTIFFS' ACTION IS BARRED BY RES JUDICATA. "

(Annex B, p. 14, Record.)

The Director of Mines filed his own motion to dismiss on the same grounds and the Secretary of Agriculture and Natural Resources filed his answer with affirmative defenses alleging also identical grounds of dismissal as those of the Cadwalladers.

Although there is no specific mention in the records as to how the respondent court acted on the affirmative defenses of the Secretary, it appears that on March 13, 1970, respondent judge denied in cavalier fashion the motions to dismiss of the Cadwalladers and the Director of Mines by ruling without giving any reasons that:

"O R D E R

"Pending resolution is a motion to dismiss filed by counsel for the defendants and the opposition thereto filed by counsel for the plaintiffs.

"After a careful consideration of the arguments advanced by both parties who argued orally in Court, the Court is of the opinion and so holds that the motion to dismiss should be as it is hereby denied for lack of sufficient merits." (Annex E, p. 34, Rec.)

The Cadwalladers filed a motion for reconsideration on March 24, 1970, and in this connection, the Secretary of Agriculture and Natural Resources filed Annex 2 of the petition which reads:

"MANIFESTATION

AND

MOTION FOR RECONSIDERATION

"Defendant Secretary of Agriculture and Natural Resources, by undersigned counsel to this Honorable Court most respectfully manifests:

"1. That on March 20, 1970, he received a copy of the Order of this Honorable Court dated March 13, 1970 denying the motion to dismiss filed by defendants.

"2. That defendants Mary and Brooke Cadwallader filed a motion dated March 24, 1970 for reconsideration of the aforementioned order stating well-founded legal grounds thereof, setting the hearing of the same on April 24, 1970 at the usual hour.

"3. That having a joint and common stand in this case with defendants Mary and Brooke Cadwallader, defendant Secretary of Agriculture and Natural Resources, for the sake of brevity, simplicity and convenience, so as not to be unduly repetitious, hereby adopts in toto as his own, the motion for reconsideration filed by defendants Mary and Brooke Cadwallader and all the grounds thereof, and hereby repleads and incorporates the same herein by reference to be taken as part hereof.

"P R A Y E R

"WHEREFORE, it is respectfully prayed that on the basis of the motion for reconsideration, the order of this Honorable Court dated March 13, 1970 be reconsidered and set aside, and another order be entered dismissing the complaint with costs against the plaintiffs; and that such further and other reliefs be granted as are just and proper under the premises.

"Diliman, Quezon City, for Boac, Marinduque, April 1, 1970.

(Sgd.) ATTY. HOMER A. BAJAR
Special Attorney, C. S. G.
Counsel for the Secretary of
Agriculture and Natural Resources
DANR Bldg., Diliman, Quezon City"

(Annex G, pp. 41-42, Rec.)

The said motions for reconsideration of all the defendants were denied as curtly as their motions to dismiss "for lack of merit", without any specific reference to the grounds overruled and without any detailed ground or reasoned-out resolution of any of the grave issues raised and discussed extensively and vehemently by the parties. (See Annex I, Petition.)

We are now being asked to hold and declare the above negative actions of respondent court as acts in grave abuse of discretion and in excess of jurisdiction. And after mature consideration of all relevant circumstances as well as the material legal points involved extant in the record, We agree with petitioners.

Although We find to be rather well taken, as We will discuss anon, practically all the grounds of dismissal put forth by petitioners in their respective motion to dismiss of and by the public defendants, the Director of Mines and the Secretary of Agriculture and Natural Resources, in their own motions, We consider as most decisive and pivotal the jurisdictional issue which respondent judge overruled summarily for no expressed reason. But before resolving that main issue, it must be stated that it turned out that during the pendency of these proceedings, all the rights and interests of the Cadwalladers were transferred to Marex Mining Corporation and Pamex Mining Company and these two companies in turn transferred them to Marcopper Mining Corporation on July 28, 1965, with the approval of the then Secretary of Agriculture and Natural Resources upon recommendation of the Bureau of Mines. In view of these develop-ments, the Court deemed it indispensable to bring Marcopper into the case, for purposes of due process and expediency, and so, on March 4, 1975, We issued the following resolution:

"In G.R. No. L-31927 (Brooke D. Cadwallader and Mary D. Cadwallader, petitioners, vs. Hon. Jesus V. Abeleda as Judge of the Court of First Instance of Marinduque and Sancho Reginio and Florentino Pilar, respondents). - It appearing that there seems to be no dispute that the Marcopper Mining Corporation is the assignee of the rights of the petitioners to one group of mining claims covered by Lease Contracts Nos. V-269, V-270 and V-271 granted to the petitioners (Cadwalladers) by the government on June 3, 1959, and of the interests of said petitioners under Lode Lease Applications Nos. V-4471, V-4474, V-4475, V-4476 and V-5793, which ultimately ripened into mining lease Contract No. V-601 granted by the government on October 14, 1968; and considering the supplemental manifestation of the private respondents of February 13, 1975 stating briefly that according to the certifications of the Deputy Commissioner of the Securities & Exchange Commission, before July 3, 1974 the Filipino holdings in the capital stock of the Marcopper Mining Corporation amounted to less than 60% 'under the statutory and constitutional requirements,' the Court RESOLVED to consider the Marcopper Mining Corpora-tion as a co-party petitioner in this case and to require it within a non-extendible period of until March 14, 1975 to submit as such petitioner its memorandum contain-ing particularly any new facts and arguments, in addition to

those already brought to the attention of this Court by the present petitioners, to traverse the position of the respondents on the three issues now before this Court, to wit:

"I. Who has jurisdiction over the subject matter of Civil Case No. 1489 (filed by the private respondents against the petitioners) for annulment of mining claims and mining lease contracts - the Court of First Instance or the Director of the Bureau of Mines?

"II. Are the questioned mining lease contracts granted to the Cadwalladers on June 3, 1959 and to the Marcopper Mining Corporation on October 14, 1968 by the then Department of Agriculture and Natural Resources (now Department of Natural Resources) void because the area covered formed part of a forest reservation?

"III. Are the questioned mining lease contracts also void under the Laurel-Langley Agreement under which only corporations, not natural persons, who are aliens, may enjoy rights under the Parity Amendment to the Philippine Constitution of 1935?" (Pages 488-489, Record.)

On March 11, 1975, Marcopper filed a Memorandum in compliance with the above resolution, and later, on May 28, 1975, it filed with the permission of the Court, a Supplemental Memorandum of 33 pages, with annexes. This development served to enliven the exchange of memoranda and comments between Marcopper and private respondents, and inclusive of the issue of jurisdiction, thereafter, they dwelt lengthily on the factual question of whether or not the mining claims in dispute were located within a forest reservation at the time their registration was granted to the Cadwalladers, each party submitting their technical and legal arguments, backed-up by documents, public and private, maps, sketches, plans, etc. as well as on the mixed factual and legal question of whether or not the Cadwalladers and Marcopper itself are disqualified to hold to their rights and interests in the claims in dispute in the light of the expiration clause of the Laurel-Langley Agreement terminating on July 3, 1974 the rights of Americans under the Parity Amendment of 1946.

On this backdrop, We can now resolve what is to Us to be the most vital issue herein, that of the jurisdiction of respondent court over the subject matter of the complaint of private respondents in Civil Case No. 1489 filed by them in 1969.

The then governing legal provision on such matter was Section 61 of the Mining Act, Commonwealth Act 137, as amended by Republic Act 746 on June 18, 1952 and reamended by Republic Act 4388 on June 19, 1965. The said reamended provision reads:

"SEC. 61. Conflicts and disputes arising out of mining locations shall be submitted to the Director of Mines for decision: Provided, That the decision or order of the Director of Mines may be appealed to the Secretary of Agriculture and Natural Resources within thirty days from receipt of such decision or order. In case any one 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, within thirty days from the receipt of such decision or order, otherwise the said decision or order shall be final and binding upon the parties concerned. Findings of facts in the decision or order of the Director of Mines when affirmed by the Secretary of Agriculture and Natural Resources shall be final and conclusive, and the aggrieved party or parties desiring to appeal from such decision or order shall file in the Supreme Court a petition for review wherein only questions of law may be raised.[1]

The text of this law was clear and unequivocal. It laid down in unmistakable terms the step by step procedure that had to be observed in all controversies relating to "conflicts and disputes arising out of mining locations." The first step was for the parties concerned to go to the Director of Mines. However, the decision of the Director of Mines could be appealed to the Secretary of Agriculture and Natural Resources within thirty days from receipt of such decision or order. It was only "in case one of the parties should disagree from the decision

or order of the Secretary of Agriculture and Natural Resources, (that) the matter (could) be taken to the Court of Appeals or the Supreme Court, as the case may be, within thirty days from the receipt of such decision or order, otherwise the said decision or order shall be final and binding upon the parties concerned. Findings of facts in the decision or order of the Director of Mines when affirmed by the Secretary of Agriculture and Natural Resources shall be final and conclusive, and the aggrieved party or parties desiring to appeal from such decision or order shall file in the Supreme Court a petition for review wherein only questions of law may be raised."

It is thus evident that from the explicit text of the applicable statute, the pose of private respondents could hardly have basis. No judicial remedy of any kind was opened initially to them; they had to go to the administrative authorities first. Respondents, however, attempted to meet the thrust of such pathway traced by the statute by alleging that:

"Respondent Florentino Pilar and Sancho Reginio's cause of action, reduced to simple terms, merely seeks to annul the Mining Lease Surveys and Contracts approved by the defendants Director of the Bureau of Mines and the Secretary of Agriculture and Natural Resources on June 3, 1959 and October 10, 1965 (please refer to paragraph 7 of Petitioners' Annex A), for the plain and simple reason that they are illegal because the entire area covered by the questioned Mining Lease Surveys and Contracts, at the time of their supposed location, claim, award, approval and perfection, is yet a forest reservation (Sec. 28, sub-par. (a), of the Mining Law in relation to Arts. 5 and 1409, C.C.); and, to give due course to these respondents' mining claims (please refer to paragraph 9, Petitioners' Annex 'A'), filed on March 17, 1969.

"Except for the other incidental causes of action, i.e., accounting and damages, also sought in these respondents' complaint, the foregoing, in a nutshell, is respondent Florentino Pilar's and Sancho Reginio's complaint. Nothing more, nothing less. Under this indubitable situation, respondents ask, where the supposed conflict of mining claims are? Further, annulment of contracts being the essence of the complaint, has not the respondent Judge original and exclusive power and authority to hear the case?" (Pages 62-63, Record.)

contending in support of such posture, that "review by a competent court of an administrative decision when there is a mistake of law or arbitrary action, is recognized", as held in *Atlas Development Acceptance Corporation vs. Gozon*, 20 SCRA 886, which followed *Atlas Consolidated Mining and Development Corporation vs. Judge Jose M. Mendoza*, 2 SCRA 1069, unaware perhaps, that in the last mentioned case, the Court further held that although the failure of the party concerned to follow the procedure prescribed by the Mining Law then did not divest the court of jurisdiction, such failure "deprived her (here, the private respondents) of a cause of action", which in law is just as fatal in effect as want of jurisdiction. In fact, in their Manifestation and "Motion for Early Decision" dated May 10, 1972, private respondents seem to have found it necessary to additionally rely on *Philex Mining Corporation vs. Zaldivia*, 43 SCRA 479, to which they aver, albeit erroneously, their instant case is "perfectly identical."

The power of judicial review is so well established and recognized in this jurisdiction that it hardly needs further restate-ment or reenforcing reaffirmance at this juncture of the jurisprudence of this country. Its paramouncy in a government of laws, such as ours, is unquestionable. Thus, it would be a superfluity to reassert here that under the rule of law, every act of government must be done within the bounds of its statutory or constitutional authority or that of the agent or officer that acts on its behalf, and that the same does not acquire finality, at the option of the party alleging to be aggrieved thereby until after it has been reviewed in an appropriate judicial proceeding, except, of course, when such act is political in nature, in which event, the courts defer to the political authorities. What is really important in the case at bar is to determine whether or not there has been proper adaptation to the situation herein of the steps required for such a review by the prevailing statute.

It is of no moment whether it is to a lower court or to the highest court of the land to which recourse for review

may be made. What is controlling is that where the statute provides for the appropriate administrative procedure that has to be observed as regards any given matter submitted to an administrative body for disposition, because by the very nature of such matter, it is more practical, expeditious and speedy to submit the same, according to the legislature, to such administrative body, that procedure must of necessity be observed before judicial review may be availed of. The judicial prerogatives derived by the courts from the Constitution suffers not a bit of diminution, much less any degree of derogation just because prior exhaustion of administrative remedies is required, as long as total denial of the power of judicial review does not result from the application of the statutory administrative remedies. In brief, where the statute specifically pre-scribes administrative steps before resort to the courts may be made, it is sound government and public policy to make the parties adhere to it unless somewhere in the process a denial of due process occurs calling for immediate judicial intervention.

In the light of the foregoing principles and pronouncements, it is to Us obvious, as already intimated earlier, that the petition herein must prosper. Indeed, We entertain grave doubts as to whether or not direct recourse to the courts is fundamentally a good policy at all, when there are express administrative remedies specifically provided by law. "Dejudicialization", as would seem to be a handy, if not juridically correct, denomination of what has been done so far in regard to labor, insurance, patent and copyright and corporation controversies under recent legislations has never been assailed precisely because judicial review is somewhere made part thereof. To put it more accurately, mining controversies, in fact, may be said to have been among the first to be so treated. Commonwealth Act 137 made resort in such conflicts to the courts optional from the start; Republic Act 746, however, made recourse to the Director of Mines mandatory in the first instance, and although appeal was allowed to the Secretary of Agriculture and Natural Resources, review could also optionally be made directly to the "court of appropriate jurisdiction", and even the decision of the Secretary could be so taken to the courts. All these are clearly brought out in *Atlas Development*, supra, at p. 892. Stated in a word, such is what is meant by the rule of primary jurisdiction.

We do not see how any of the cases cited by respondents could be of any help to them. In *Atlas Development*, supra, then Justice, later Chief Justice Makalintal, after stating the factual background that the controversy among the parties revolved around a conflict as to who as between the parties had the preferential right to lease certain mineral claims, made the following clarification of the law, premised, as can be inescapably deduced from the tenor of the opinion, on the indispensability under Section 61 of the Mining Act (then Republic Act 746) of resorting first to the Director of Mines before seeking judicial redress:

"ATLAS maintains that the petition it filed in the court below is not, nor is it intended to be, an appeal or a petition for certiorari, but rather an ordinary civil action filed in a court of competent jurisdiction in accordance with section 61 of the Mining Act, which provides:

'SEC. 61. Conflicts and disputes arising out of mining locations shall be submitted to the Director of Mines for decision. Provided, that the decision or order of the Director of Mines may be appealed to the Secretary of Agriculture and Natural Resources within 30 days from the date of its receipt. In case anyone of the parties should disagree from the decision or order of the Director of Mines or of the Secretary of Agriculture and Natural Resources, the matter may be taken to a court of competent jurisdiction within thirty (30) days from the receipt of such decision or order; x x x'

"It is at once evident that the law just quoted does not contemplate a special civil action in certiorari under Rule 65 of the Rules of Court, which is available only when a tribunal, board or officer exercising judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion and there is no appeal or other plain, speedy and adequate remedy in the ordinary course of law. Certiorari is ruled out by the fact that the matter may be taken to court directly from the decision of the Director of Mines, this notwithstanding the availability of appeal to the Secretary of Agriculture and Natural Resources. Nor would it be logical to say that

after such appeal has been taken certiorari is the proper recourse from the decision of the Secretary for the law speaks of only one and the same judicial remedy from the decision of either of the said officials; and if it is not certiorari as against the Director it cannot be certiorari as against the Department head.

"The order of dismissal under review implies that, alternatively, Section 61 of the Mining Act contemplates an appeal, which according to the lower court must comply 'with the formalities regarding appeal.' That the Court of First Instance is a 'court of competent jurisdiction' within the meaning of the said provision is conceded by the parties. Consequently the 'formalities regarding appeal' mentioned in the order must have reference to those provided in Rule 40 of the Rules of Court, which deals with appeals from inferior courts to Courts of First Instance.

"We are not convinced that this was the intention of the lawmaking body when it drafted Section 61 of the Mining Act. If it were, it should have been easy enough to so provide, in explicit and unmistakable language, instead of saying merely that the matter may be taken to court. It is significant that Section 61 does speak of appeal, but (from the decision of the Director of Mines) to the Secretary of Agriculture and Natural Resources. Furthermore we see no cogent reason, considering the terms of the statute, to hold that the formalities prescribed in Rule 40 must be followed, such as perfection of the appeal within fifteen (15) days, posting of an appeal bond, reproduction of pleadings on appeal, vacation of the judgment appealed from and trial de novo in the Court of First Instance.

"On the other hand, we cannot subscribe to the view of appellant ATLAS that what is authorized by Section 61 is an ordinary civil action brought before the Court and triable by it without regard to the decisions of the administrative officials. If that were so there would be no point in the mandatory character of the first sentence of the provision, that conflicts and disputes arising out of mining locations shall be submitted to the Director of Mines for decision,' nor in the subsequent portion which states that the case may be taken to court 'in case anyone of the parties should disagree' with the decision or order of the Director, or of the Secretary on appeal. What is implicit in the law is not an ordinary original civil action, nor even a trial de novo of the case, but in reality a review of the administrative decision. This is our ruling in *Atlas Consolidated Mining and Development Corporation vs. Judge Jose M. Mendoza, et al.*, L-15809, August 30, 1961. Indeed, the very allegations in the petition of ATLAS below show that it is meant to seek such review, by impleading respondent officials, pointing out the errors committed by them and asking that their respective decisions be set aside." (20 SCRA, 890-892.)

Truth to tell, it is beyond cavil that private respondents knew before 1969 of the indispensability of initiating the renewal of their battle against the Cadwalladers in the Bureau of Mines, for it is a fact of record that they filed their application for registration with that Bureau before they filed Civil Case No. 1489. If from the start of this renewed controversy they were really convinced that their remedy was really judicial, they would have gone straight to the court without taking any preliminary administrative step. As it happened, they actually took the first step required by Republic Act 4388 but subsequently changed their mind, and in defiance of its requirement that they appeal to the Secretary of Agriculture and Natural Resources, they resorted to the judicial action now in question.

At this juncture, it is interesting to note that whether We consider the action of private respondents in the court below as an ordinary civil action against petitioners as private individuals or one for review of the rejection by the Director of Mines of their application for lease survey of the mining claims at issue, albeit without joining as indispensable parties thereto the public officials concerned, but certainly not as a certiorari, lacking as their complaint does the requisite allegations of grave abuse of discretion or excess of jurisdiction etc. for such remedy, the claim of petitioners that said action is barred by *res adjudicata* sounds plausible insofar as petitioners, at least, are concerned. But this is not because they reiterated exactly the cause of action they had alleged in the first

compromised case, Civil Case No. 1125.

What happened was that in their complaint in Civil Case No. 1125, respondents already charged that the claims of the Cadwalladers were null and void, but the sole specific reason they gave was overlapping with their alleged earlier location. That complaint was dated, as already stated earlier, June 26, 1958, by which time they had already received the rejection by the Director of Mines of June 11, 1958 (Annex D, of Marcopper's Supplemental Memorandum) of their contention or theory contained in respondent Reginio's letter of May 28, 1958 (Annex C of the same memorandum) that the claims herein in dispute were within a forest reservation. In other words, it is safe to say that when Civil Case 1125 was filed by respondents, they were already possessed of the information they are now pressing on Us that in their own view the Cadwallader claims were illegally within a forest reservation, and yet, they failed to allege that supposed illegality as part of their cause of action then. Under such circumstances, it is quite plain to see that by basing their complaint purely and exclusively, on the ground of priority of location knowing as they did already know of the rejection by the Bureau of Mines of their charge of illegality on the ground of such (Cadwallader) claims being within a forest reservation, they must be deemed to have admitted the correctness of the Bureau's pose that no such reservation was affected. Consequently, they are now in estoppel, after ten long years, to raise said issue.

And viewing the situation adjectively, it stands to reason that since petitioners' claim of priority of location carried with it their pretense that the claims in question were within a forest reservation, it would follow that the two matters constituted but a single cause of action. By failing to allege the matter of the forest reservation in Civil Case No. 1125, they split their cause of action in violation of Section 3 of Rule 2 of the Rules of Court, for which they cannot escape the bar to their new action provided for in Section 4 of the same rule.[2]

Be that as it may, the trouble with respondents is that in their complaint now in question in Civil Case No. 1489, their allegations in above-quoted paragraphs 3 and 4 thereof would give anyone the impression that it was only after September 8, 1958 that respondent Reginio learned that "the areas embraced in his mining claims is within the areas covered by Proclamation No. 258 dated February 11, 1938 reserving the entire areas as a forest reserve" when, in truth, as just pointed out in the above discussion, they knew of it as early as May 26, 1958 or thereabouts. The Court cannot look with favor at such manner of presenting facts to the court, which, even if not maliciously done, could be misleading as regards the true or exact ground of protest respondents had against the Cadwallader claims in the two decade-apart cases. Was it simple priority of location of claims or illegality by reason of their inclusion in a forest reservation or both?

We have to underline this point, for the simple reason that since Case No. 1125 was dismissed upon joint motion of the parties, thereby implying, as common experience would teach Us, that something of a compromise or of mutual or reciprocal concessions between the parties had taken place, it smacks of unfairness, if not plain harrassment, that after almost a decade and after development and operation representing hundreds of millions of pesos of investment had already been made by Marcopper, a new complaint would be filed that alleges a matter which was necessarily a very important aspect of the supposed illegality alleged in the first complaint and of which the same plaintiffs were then already well cognizant. By and large, some degree of laches, estoppel or waiver must be held to have set in barring the present action. As a matter of statutory law, Sec. 72 of the Mining Act provides:

"Sec. 72. Upon receipt of the application, and provided that the requirements of this Act have been substantially complied with, the Director of the Bureau of Mines shall publish a notice that such application has been made, once a week for a period of three consecutive weeks, in the Official Gazette and in two newspapers, one published in Manila either in English or Spanish, and the other published in the municipality or province in which the mining claim is located, if there is such newspaper, otherwise, in the newspaper

published in the nearest municipality or province. The first publication of such notice shall be made within thirty days after the filing of the application for lease, if such application is accompanied by an official plan and technical description of the claim or claims covered by the application, and within thirty days after the filing of the official plan and technical description of the claim or claims covered by the application, if such application was filed in advance of the filing of such plan and technical description. The Director of the Bureau of Mines shall also cause to be posted on the bulletin board of the Bureau of Mines the same notice for the same period. The applicant shall post for the same period a copy of the plat of the claim or claims applied for, together with a notice of such application for lease, in a conspicuous place on the land embraced in such plat, on the bulletin board, if any, of the municipal building of the municipality, and also in the office of the mining recorder or district mining officer of the province or district in which the claim or claims are located; and shall file with the Director of the Bureau of Mines the affidavit of at least two persons stating that such notice has been duly posted in the places above specified. At the expiration of the period of publication the applicant shall file with the Director of the Bureau of Mines an affidavit showing that the plat and notice have been posted in a conspicuous place on the claim or claims concerned and in the places above specified during such period of publication, and thereupon, if no adverse claim shall have been presented to the Director of the Bureau of Mines, it shall be conclusively presumed that no such adverse claim exists and thereafter no objection from third parties to the granting of the lease shall be heard; and the lease shall within forty-five days be granted to the applicant, or to his successor or assigns, by the Secretary of Agriculture and Commerce, provided that all amounts then due to the Government of the Philippines, or any of its branches or subdivisions, under the provisions of this Act, shall have been paid."

It is beyond controversy that private respondents have never filed the protest or adverse claim contemplated in this provision. In the words of the law, therefore, it should "be conclusively presumed that no such adverse claim exists and thereafter no objection from third parties to the granting of the lease" to Cadwallader "shall be heard".

Going back to the jurisprudence relied upon by private respondents, it is quite clear that the case of *Philex vs. Zaldivia*, supra, cannot lend any prop to their pose that since what Case No. 1489 involves is a purely legal or judicial question, immediate resort to the court is possible, even if what is at the root of the controversy is a conflict or dispute arising out of a mining claim. It is obvious that petitioners are grossly misimpressed about the ruling in that case as well as the juridical import thereof. The Court made it very clear therein, thru Justice J.B.L. Reyes, that:

"The records of the Bureau of Mines disclosed that, by a registered deed of assignment, dated 24 September 1955, George T. Scholey, as locator of the aforesaid mining claim, sold, transferred and assigned all his rights, title and interest therein to Milagros Yrastorza; on 7 December 1959, Yrastorza filed Lode Lease Application No. V-4671 covering the said mining claim, but on 15 October 1963, she sold, transferred and conveyed all her rights and interest in the claim to herein respondent Luz Zaldivia. The transfer was approved by the Director of Mines on 29 December 1966; hence, Lode Lease Application No. V-4671 was recorded in Zaldivia's name and given due course.

"Upon publication of the lease application, herein petitioner Philex Mining Corporation interposed an adverse claim to the lease application, alleging that it is the beneficial and equitable owner of the mining claim; that it was located on 9 December 1955 by the petitioner corporation's then general manager for the benefit of the corporation; that when Scholey transferred the claim to Yrastorza, Scholey was still the general manager, while Yrastorza was also employed by the company; and that Yrastorza and respondent Zaldivia, who had also been an employee of the corporation, merely acted as agents of Scholey, so that, despite the transfers, petitioner remained the equitable owner.

"Respondent Zaldivia moved to dismiss the adverse claim on three (3) grounds, namely: late filing of the adverse claim, lack of jurisdiction of the Director of Mines to resolve the question of ownership raised by herein petitioner, and the alleged defect of the adverse claim for non-compliance with certain requirements of

the Mining Act, as amended. In the course of an oral argument on the motion to dismiss, only the question of jurisdiction was submitted for resolution."

x x x

"We can not agree with petitioner's contention. The sole issue raised by it is a pure question of law, to wit, whether Scholey, during the period of his management of appellant's affairs, could lawfully locate mining claims for his sole and exclusive benefit, and transfer to others the rights thus acquired. There is here no question of fact nor matters requiring technological knowledge and experience. The issue is one to be resolved in conformity with legal rules and standards governing the powers of an agent, and the law's restrictions upon the latter's right to act for his own exclusive benefit while the agency is in force. Decision of such questions involves the interpretation and application of the laws and norms of justice established by society and constitutes essentially an exercise of the judicial power which under the Constitution is exclusively allocated to the Supreme Court and such courts as the Legislature may establish, and one that mining officials are ill-equipped to deal with."

x x x

"As already shown, petitioner's adverse claim is not one grounded on overlapping of claims nor is it a mining conflict arising out of mining locations (there being only one involved) but one originating from the alleged fiduciary or contractual relationship between petitioner and locator Scholey and his transferees Yrastorza and respondent Zaldivia. As such, the adverse claim is not within the executive or administrative authority of the mining director to solve, but in that of the courts, as it has been correctly held, on the basis of the doctrine stated in *Espinosa vs. Makalintal*, 79 Phil. 134. x x x" (Pp. 480, 483-484, 43 SCRA.)

In short, definitely, the Zaldivia case did not involve any conflict or dispute arising out of a mining claim within the contemplation of Sec. 61 of the Mining Act.

On the other hand, in the case at bar, while it is true that the legality of the claims or location of the Cadwalladers was raised in issue by private respondents although belatedly and illegally, (considering it had already been raised and decided in 1958 without any subsequent protest nor appeal to the appropriate authorities nor to the courts in due time by respondents) as already explained, there are technical matters related to that issue that have to be passed upon by the Secretary (now Minister) of Natural Resources to whom respondents should have appealed. To be sure, voluminous documents, maps, plans, sketches, etc. have been attached by the parties to their pleadings filed with Us, on the basis of which, perhaps, some kind of finding can be made, but examined more closely, some of said documents are not entirely not controverted by the adverse party and much less are they indubitable on their faces. What is more, considering their nature, on the one hand, and the means, machinery and personnel of the courts, on the other, the latter, are not properly equipped nor possessed with enough technical expertise to determine their sufficiency and conclusiveness as much as the Ministry of Natural Resources would understandably have, for they deal with boundaries, tie points, etc., each of the contending parties having varying interpretations thereof. Particularly, is this task extremely difficult at this stage and in this Court, without the benefit of any oral testimony with the concomittant cross-examination of the witness.

Indeed, in *Mackenzie Pio vs. Marcos*, 56 SCRA 726, in a very exhaustive and illuminating opinion written for the Court by Justice Teehankee, it was made unmistakably clear that:

"On the jurisdictional question raised by intervenors Scholey and the Nevadas in the latter's counter-petition in Case L-34432, the Court holds that the doctrine of *Philex Mining Corp. vs. Zaldivia* is controlling. Consequently, petitioner's second cause of action in his complaint below disputing the right of Philex to operate and exploit the mining claims in question under mining leases duly granted by the Government to the leaseholders who in turn granted operating rights to Philex on a royalty basis is beyond the jurisdiction of

respondent court of first instance, since under Republic Act 4388 which became effective on June 19, 1965 prior to the filing of the complaint, exclusive original jurisdiction over 'conflicts and disputes arising out of mining locations' is vested in the Director of Mines whose decision may be appealed to the Secretary of Agriculture and Natural Resources, whose decision in turn may be appealed only to the Court of Appeals or to the Supreme Court, as the case may be, within the statutory 30-day periods fixed, to the exclusion of courts of first instance. By the same token, since petitioner's first cause of action for recovery of possession of the premises (under claims of alleged ownership by right of inheritance) and for recovery of reasonable rentals for surface rights does not raise adverse claims over mining rights which fall within the original administrative authority of the Mines Director but asserts claims judicial in nature which can be resolved only by regular courts in the exercise of judicial power, such first cause of action properly falls within the jurisdiction of respondent court."

x x x

"To be precise, then, petitioner's complaint alleged two causes of action. In one cause of action (the second) petitioner disputes the right of Philex to conduct mining operations on about forty-eight mining claims allegedly belonging to him by right of inheritance from his deceased father and seeks the payment of P70,000 monthly from Philex 'for actually operating and mining the mineral claims belonging to plaintiff.' Since mining leases have been duly awarded on the group of claims (referred to as the Nevada group of claims) by the Republic of the Philippines through the Secretary of Agriculture and Natural Resources to the Nevadas who in turn granted Philex operating rights thereon on a royalty basis, it is manifest that under the provisions of Republic Act 4388, such 'conflicts and disputes arising out of mining locations' or adverse claims during the period of publication against applications for mining leases had to be submitted under sections 61 and 73 of the Mining Law as amended by the cited Act to the Director of Mines (not to the court of first instance) for decision, subject to appeal to the department Secretary, whose decision may be reviewed on appeal only by the Court of Appeals or the Supreme Court as the case may be, under the terms and in the manner prescribed by the Act. This cause of action is thus beyond the jurisdiction of respondent court and must be dismissed. The basis of dismissal of this cause of action which in effect upholds Philex' right to operate the mining claims for failure of petitioner to timely avail of the administrative recourse provided by the Mining Law to submit his conflicting or adverse claims to the Mines Director, is likewise applicable to the fourth intervenors, the Ilongot Cultural Minority, whose vague claim of ownership (*supra*, p. 7) should likewise be dismissed."

From all the foregoing, it is Our conclusion that private respondents went to the respondent court prematurely, assuming they had any more right at all that could be vindicated, considering what We have already explained earlier. There is no doubt in Our minds that the issue of whether or not the Cadwallader claims were within the forest reservation referred to by respondents at the time they were located, related as it is to the claim of respondents that they were prior locators thereof, necessarily involved issues of fact peculiarly within the province of the Bureau of Mines to inquire into, rather than in the courts, considering the comparative means, equipment and trained personnel needed for the purpose. Whether or not the claims of the respondents and those of the Cadwalladers overlap and whether or not said claims were within a forest reservation from which they were allegedly released,[3] are technically and even in common sense "conflicts and disputes arising out of mining locations" whatever be the grounds on which the contending parties based their respective claims, which cannot, under the circumstances of the case at bar, be purely legal and devoid of factual facets rather technical in their nature. It is Our considered opinion and We so hold that under Section 61 of the Mining Act, as amended by R.A. 4388, the remedy of the private respondents, if any was still legally available to them, was appeal to the Secretary (now Minister) of Natural Resources.

In any event, even if it were remotely possible for Us to uphold private respondents here, since they are mere purported locators of the claims in question, they would still have to go back to the Bureau of Mines. In other words, even a decision of this case in favor of private respondents would not and could not necessarily entitle

them to a lease of their claims and to the consequent ouster of Marcopper. Those matters would still have to be coursed thru and decided by the Bureau of Mines and the higher authorities as provided for in the existing laws. It would be futile effort on Our part to go into matters which after all, We are, in the first place not fully competent to perform, and in the second place, would have to be gone over or at least considered by the corresponding administrative officials just the same.

With insistence and vehemence, petitioners would want Us to apply to this case Presidential Decrees 99-A dated January 15, 1973, 309 dated October 10, 1973 and 463 dated May 17, 1974. In this connection, We are well aware of the desirability and urgency to expedite as much as possible the disposition of conflicts and controversies related to mining claims, conscious as We are, as a matter of common knowledge of the deleterious effects and the tremendous damage delay thereof have been causing the mining industry of our country, indeed, a vital vein of its economy and progress. The inevitable tendency towards such procedural developments is manifest to Us. This is the main reason why We take the view here that Republic Act 4388 is a significant step in that direction by providing judicial review only after the department head has already acted, for then the courts would have the benefit of more careful and repeated study by technically competent men of the delicate matters in dispute, not to speak of the time usually consumed in a judicial litigation. A judicial review then should as a rule be limited only to pure questions of law, which, of course, administrative officials have the power to pass upon in the first instance, as in fact, the courts do accord, as a matter of policy, such conclusions due consideration. We do not have to go far in this regard. The explanatory note supporting the bill that ripened into Republic Act 4388 sufficiently, nay emphatically, point to the national policy that the procedure for the disposition of mining conflicts and disputes should be speedy and expeditious:

"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 the thousands of cases, it takes years before the court can decide a case. (Congressional Record, Proceedings and Debates of the Fifth Congress, Second Regular Session, Vol. II, Part II, No. 66, Page 1346)"

All these notwithstanding, We prefer not to pass on the applicability of the presidential decrees urged by petitioners to this case, if only because, procedural in a sense as some parts thereof may be, and therefore, could apply to pending cases, it is a fact that they were promulgated years long after this case had already been filed and had thus progressed considerably. To abruptly apply them now could involve intricate problems of due process, since the parties have not been fully heard in regard to such legislative developments.

Besides, and more importantly, We would rather go slow in giving Our sanction to the divesting of the courts of jurisdiction thru legislation over cases already pending therein. It is not hard to imagine that the extent to which the long valued and cherished independence of the judiciary could be impaired by giving way to such procedure should easily outweigh considerations of expediency and the demands of the national economy and material progress. It would be an incalculably costly loss in terms of principle for the sake of material gain. Anyway, Republic Act 4388, as already explained, is adequate by itself for purposes of Our disposing of the present controversy. It is best to wait then for the most appropriate situation properly brought to Our attention for this Court to pass on such a delicate issue squarely.

Now, it being clear that respondent court erred in denying petitioners' motion to dismiss on jurisdictional grounds, the usual rule that denials of such motion is interlocutory must yield to the paramount necessity of settling

questions of jurisdiction soonest, if only to avoid possible duplications of proceedings. And since petitioners' case in the trial court must be dismissed, We consider it unnecessary, if not inappropriate for Us to tackle the other two issues referred to in Our resolution of March 4, 1975. It might be explained that We included them only in contemplation of the eventuality, We might decide the first issue favorably to the respondents, in which case, We would have had to either deal with them Ourselves or to lay down the legal guidelines for the trial court. As it is, however, with the lack of jurisdiction of the trial court being manifest, We prefer to leave the other issues referred to in Our resolution for determination by the administrative authorities and defer any opinion on them until an appropriate case reaches this Court.

Respondents' contention that the first issue had become moot and academic because of the nature of the second and third issues is untenable. We never had such a juridical consequence in mind.

Petitioners invite Our attention to two more points they claim should be decisive. First, it is contended that Section 13 of the Transitory Provisions of the Constitution of the Philippines of 1973 governs this case. Said constitutional provision reads:

"Sec. 12. All treaties, executive agreements, and contracts entered into by the Government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations, are hereby recognized as legal, valid, and binding. When the national interest so requires, the incumbent President of the Philippines or the interim Prime Minister may review all contracts, concessions, permits, or other forms of privileges for the exploration, development, exploitation, or utilization of natural resources entered into, granted, issued, or acquired before the ratification of this Constitution."

In the mind of the Court, the above provision does not have the effect of validating government contracts otherwise legally defective. It only means that all contracts entered into by the Government prior to the ratification of the Constitution continue in force, if validly entered into or granted, but surely, it cannot be supposed that the makers of the Constitution arrogated unto themselves the power to pass on the validity of contracts, the legality of which, like the one herein involved, were being challenged or under litigation. Briefly, Section 12 above was not intended to be a validating provision of government contracts suffering from legally fatal deficiencies.

As regards the power of review granted to the President-Prime Minister by the above charter provision, again it must be understood that such authority concerns validly executed contracts. We do not believe the President-Prime Minister has been vested with authority to pre-empt judicial jurisdiction thru such power of review. To Our mind, the contracts contemplated are those that the President-Prime Minister may find defective in substance or worse, inimical to the public interest, in which event, he may take the appropriate curative or derogative measures, but it is difficult to imagine that such power of review includes that of imparting validity to contracts violative of the law. In other words, the wholesome objective of the provision is to open to the President-Prime Minister the door to do away with defective contracts for the protection of the interests of the people, by either cancelling them or seeking improvement of their terms favorably to the government and people of the Philippines without regard to the constitutional proscription against the impairment of the obligation of contracts.

But, as already extensively discussed earlier, petitioners do not need to seek umbrage under the shadows of the quoted constitutional precept. Under the facts We have discussed above, the private respondents' complaint in the court below in Civil Case No. 1489 must be dismissed.

WHEREFORE, the petition in the instant case is granted, the respondent court's orders complained of in the petition are hereby set aside and the respondent court is permanently enjoined from further acting in its Civil Case

No. 1489, except to dismiss the same. No costs.

Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Fernando, C.J., reserves his vote.

Teehankee, Makasiar, and Aquino, JJ., in the result.

[1]

"Words in bold in the text above are amendments introduced by RA 4388, section 1, approved June 19, 1965."

The original text was in Commonwealth Act 137 thus:

"Statutory History of section 61:

a) Original text–

SEC. 61. Conflicts and disputes arising out of mining locations [may] be submitted to the Director of [the Bureau of] Mines for decision: Provided, That [such] decision may be appealed to the Secretary of Agriculture and [Commerce] within [ninety] days from the date of its [entry.] In case any one of the interested parties should disagree from the decision of the Director of [the Bureau of] Mines or of the Secretary of Agriculture and [Commerce,] the matter may be taken to the Court of competent jurisdiction within [ninety] days [after notice] of such decision, [after which time without the institution of such action] the said decision shall be final and binding upon the parties concerned. (Words in brackets were deleted in RA 746, infra.)

b) Words in bold in the text immediately following are amendments introduced by RA 746, section 3, approved June 18, 1952.

SEC. 61. Conflicts and disputes arising out of mining locations shall be submitted to the Director of Mines for decision: Provided, That the decision or order of the Director of Mines may be appealed to the Secretary of Agriculture and Natural Resources within thirty days from [the date of its] receipt. In case any one of the parties should dis-agree from the decision or order of the [Director of Mines or of the] Secretary of Agriculture and Natural Resources, the matter may be taken to the [court of competent jurisdiction] within thirty days from the receipt of such decision or order; otherwise the said decision or order shall be final and binding upon the parties concerned. (Words in brackets were deleted in RA 4388, supra.)

Later, Presidential Decrees 99-A dated January 15, 1973, 309 dated October 10, 1973 and 463 dated May 17, 1974 revising the Mining Act were issued. These decrees made the procedure completely administrative with the President-Prime Minister as the final appeal authority, without naturally, although not expressly, excluding the Supreme Court's plenary constitutional power of review on grounds of due process, grave abuse of discretion, etc.

[2] Section 3. One suit for a single cause of action. - A party may not institute more than one suit for a single cause of action.

Section 4. Effect of splitting a single cause of action. - If two or more complaints are brought for different parts of a single cause of action, the filing of the first may be pleaded in abatement of the other or others, in accordance with section 1 (e) of Rule 16, and a judgment upon the merits in any one is available as a bar in the others.

[3] Marcopper claims that the Cadwallader locations were never in a forest reservation and that the other 21 claims they later secured were the ones included in the released portion.

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