

**PALAWAN MANGANESE MINES, INC., PLAINTIFF-APPELLANT, VS.  
HON. FERNANDO LOPEZ, IN HIS CAPACITY AS SEC. OF  
AGRICULTURE AND NATURAL RESOURCES, PACIFICO BAUTISTA,  
ALFREDO L. ROMERO, ...**

*G.R. No. L-7375. May 21, 1955*

Ponente: MONTEMAYOR, J.

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**MONTEMAYOR, J.:**

This case involves a conflict over certain mining claims in Coron, Palawan, between the plaintiff-appellant Palawan Manganese Mines, Inc. (hereafter referred to as PALAWAN MANGANESE) and the Kalawag Mining Enterprises (hereafter referred to as KALAWAG MINING). On February 13, 1948, the Kalawag Mining filed administrative case No. 26 with the Bureau of Mines against the Palawan Manganese on the ground that the latter had extracted minerals from a lode claim Maloocobe No. 1 located by the former in November, 1936. The case having been dismissed by the Bureau of Mines, the Kalawag Mining appealed the case to the Secretary of Agriculture and Natural Resources who rendered decision on March 10, 1953 on April 23, 1953 and filed on July 6, 1953, the present complaint in the Court of First Instance of Palawan against Hon. Fernando Lopez as Secretary of Agriculture and Natural Resources and certain persons negotiating under the name Kalawag Mining Enterprises.

The defendant-appellee Kalawag Mining filed a motion for dismissal on the ground that the complaint was filed out of time. The trial court granted said motion and dismissed the complaint. The Palawan Manganese is appealing from that order of dismissal.

The only question involved in the present appeal is whether or not the complaint was filed with the Court of First Instance of Palawan on time. Section 61 of Commonwealth Act 137 as amended by Republic Act 746 which took effect on June 18, 1952, reads as follows:

"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 date of its receipt. In case any one 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 the court of competent jurisdiction within 30 days from the receipt of such decision or order; otherwise the said decision or order shall be final and binding upon the parties concerned."

Under the above quoted provision of Commonwealth Act 137, as amended, it is clear that since at the time the decision of the Secretary of Agriculture and Natural Resources was rendered, Republic Act 746 was already in effect, the period for taking the case as decided by the Secretary of Agriculture and Natural Resources to the Court of First Instance was thirty days to be counted from April 23, 1953; however, as already said, the present case was filed in the Court of First Instance on July 6, 1953, or about 44 days late. Apparently, the appellant herein

had the impression that the period for such filing of the complaint was the period of 90 days provided for the Commonwealth Act 137 before its amendment by Republic Act 746. It probably overlooked the amendment reducing said period to 30 days. From what we have already said about the period for filing the complaint, it is clear that the complaint was filed out of time, and so the trial court acted correctly in issuing its order dismissing the case. The order of dismissal appealed from is hereby affirmed, with costs.

Pablo, Bengzon, Reyes, Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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