

ROBUST ROCKS RESOURCES CORPORATION, PETITIONER, VS. HON. ENRIQUE T. GARCIA, JR., IN HIS PERSONAL CAPACITY AS THE GOVERNOR OF THE PROVINCE OF BATAAN, AND EMERLINDA S. TALENTO IN ...

Ponente: ROMILLA-LONTOK, J.

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ROMILLA-LONTOK, J.:

Robust Rocks Resources Corporation, (Robust Rocks), organized and registered with the Securities and Exchange Commission, in its petition filed with this Court alleges that it operates rock quarrying in Bataan with Quarry Permit No. QP-B-97-001 which was periodically renewed.

In the year 2002, the province of Bataan, through its Provincial Governor, Leonardo Roman, imposed upon Robust Rocks sand and gravel tax at 10% of the fair market value of quarry resources extracted and real property tax on its machineries without any depreciation allowance which Robust Rocks pegged at 5% of the machineries' original cost for each year of use.

Robust Rocks disputed said impositions, despite which, the Provincial Treasurer issued on November 14, 2002 a Notice of Sale of petitioners' properties for said unpaid assessments.

On December 5, 2002, Robust Rocks filed with the RTC, Balanga, Bataan a petition for Prohibition and Mandamus with Prayer for a Temporary Restraining Order/Preliminary Injunction to enjoin respondent from proceeding with said sale; from collecting said assessed taxes and to maintain the status quo. Said complaint, docketed as SPL No. 045-ML, is assigned to Br. 4, RTC, Balanga, Bataan. A TRO for 72 hours was issued to preserve the status quo. The parties mutually agreed to comply with the status quo order. (Rollo, p. 133).

Robust Rocks further alleged that respondent Enrique Garcia, Jr. failed and refused to issue the corresponding quarry permits despite payment of required fees and approval of previous renewal applications and issued a Closure Order through Executive Order No. 14. Armed men in civilian clothes, Robust Rock claims, were utilized by respondents to threaten its officers and employees.

Robust Rocks prayed for the declaration of Executive Order No. 14 as invalid and unlawful; an order for respondent Enrique T. Garcia, Jr. to issue appropriate quarry permits and for respondents to cease and desist from implementing the closure order; from harassing its personnel and subcontractors; collecting the imposed taxes; and for payment of damages.

The petition was amended to exclude the prayer for the declaration of Executive Order 14 invalid and unlawful.

A temporary restraining order was issued by this Court on May 5, 2005 for respondents to refrain from stopping petitioner's quarry operations by dispatching armed men to intimidate its employees.

Respondents, in their Comment, claimed that Robust Rocks failed to show clear legal right for entitlement to mandamus. Robust Rocks is not the real party-in-interest. The applications for renewal were filed by Antonio Dy,

Vicente B. Alarcon, Rolando Glorio and Red D. Vidal, who also paid the renewal fees and to whom the receipts were issued. The requirements for renewal as follows:

- Area clearance that the area applied for is not in conflict with others;
- Operation plan specifying restoration and rehabilitation of the area applied for;
- Project study showing the economic feasibility of the project, volume, proposed production rate and machineries and equipment to be used; map of the area indicating the stages in which excavations are to be undertaken and proof of financial capability and technical competence to undertake the project;
- Certification from the Barangay Chairman and Municipal Mayor that the operation is not detrimental to public interest;
- Clearance from government agencies and owners of adjacent lands which may be affected by the permit.
- Environmental Compliance Certificate;
- Written commitment that the Provincial Government shall be allowed to extract and have sand, gravel and other construction materials from permit area, provided that the materials shall be for the Provincial Government's own use; that the materials shall not be commercial quantity and there will be a written authorization from the Governor, or in his absence, the ENRO.

were not complied with.

Robust Rocks violated the provisions of R.A. 7942 by continuing the operations despite expiration of the permits and exhaustion of the allowable quantity of One Million (1,000,000) cubic meters of quarry materials. Records of the Office of the Provincial Treasurer show 1,123,828.51 cubic meters to have been already extracted by Robust Rocks. (Annex "5", Comment, Rollo, pp. 208-213). Not only is said violation a ground for non-renewal of permit. It entails criminal liability.

Respondents further claim that Robust Rocks is guilty of forum-shopping. The issue of propriety and legality of the imposed tax assessments is also raised in Special Civil Action No. 045-ML pending before Branch 4, Balanga RTC. The dismissal of instant petition is, thus, warranted.

Respondents likewise filed a motion to clarify whether the TRO includes the notice of distraint of boulders and aggregates embraced in said notice and declared that removal thereof by Robust Rocks constituted theft of minerals under Section 103 of RA 7942. Incorporated in the opposition to said motion is the prayer to cite respondents in contempt for preventing the loading of quarry materials at the quarry docks and delivery thereof to petitioner's various clients.

Respondents, in their comment, alleged that contempt proceedings should be commenced by a verified petition, not merely a motion.

Robust Rocks filed its reply stating that applications for quarry permits are ipso facto renewed upon filing of the application; there was valid assignment of the permit holders' rights to Robust Rocks; there was no excess on allowable quantity of quarry materials extracted; and that respondents never denied employment of armed men to harass its personnel. Robust Rocks reiterated its prayer for damages.

A resolution of the issue of forum shopping demands priority.

Forum shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment. A party violates the rule against forum shopping if the elements of *litis pendentia* are present; or if a final judgment in one case would

amount to res judicata in the other.

There is forum shopping when the following elements are present: a) identity of parties or at least such parties as represent the same interests in both actions; b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and c) the identity of the two preceding particulars, is such that any judgment rendered in the other action will, regardless of which party is successful, amount to res judicata in the action under consideration, said requisites [are] also constitutive of the requisites for auter action pendant or lis pendens. (Amando S. San Juan, et al. vs. Miguel L. Arambulo, Sr., GR No. 143217, December 14, 2005.

The issues raised in Special Civil Action No. 045-ML with the Bataan RTC and in instant petition pending before this Court boil down to the propriety of the imposition of tax assessments made by respondents herein upon petitioner Robust Rocks. The parties in both cases are the same or at least represent the same interests-the petitioner in both cases is the party upon which the assessments are imposed and the respondents are those who effected and are attempting to collect the assessments. The reliefs prayed for in both petitions are founded on the same facts. The identity in the two (2) preceding particulars is such that any judgment rendered in SPL. No. 045-ML will, regardless of who will be successful, amount to res judicata in this action under consideration.

Robust Rocks committed forum shopping in filing instant petition.

There is, thus, no necessity to dwell on the other issues.

WHEREFORE, premises considered, instant petition is DISMISSED. Any ancillary remedy issued herein is QUASHED.

SO ORDERED.

Barrios, (Chairman) and Guariña, III, JJ., concur.

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