

## **PHILEX MINING CORPORATION, PETITIONER, VS. LUZ M. ZALDIVIA AND THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, RESPONDENTS.**

*G.R. No. L-29669. February 29, 1972*

Ponente: REYES, J.B.L., J.

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### **REYES, J.B.L., J.:**

Petition to review and set aside the decision of the Secretary of Agriculture and Natural Resources, upholding, on appeal, the Director of Mines as being without jurisdiction to adjudicate an adverse claim filed by herein petitioner Philex Mining Corporation against the lode lease application recorded in the name of herein private respondent Luz M. Zaldivia to a mining claim, known as "George Claim", located in Tuba, Benguet, Mt. Province.

The records of the Bureau of Mines disclose 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 interests 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.

In an order issued on 2 April 1968, the Director of Mines dismissed the adverse on the ground that the Bureau had no jurisdiction to resolve the question of ownership, because the question was judicial in character and should be ventilated before the courts. Petitioner appealed to the Secretary of Agriculture and Natural Resources but, in a decision rendered on 24 September 1968, the Secretary affirmed the order of the Director of Mines.

Petitioner Philex Mining Corporation filed the present petition on the sole issue of jurisdiction of the Director of

Mines over the controverted issues.

Petitioner relies upon amendments introduced by Republic Act No. 4388 to the Mining Act (Commonwealth Act No. 137); arguing that, before said amendments, conflicts and disputes arising out of mining location were determined by the Director of Mines, whose decision might be appealed to the Department Secretary, and the latter's decision in turn was reviewable by a competent court, as provided in the original Section 61 of Commonwealth Act 137, as follows:

"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 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."

and that an adverse claim to a lease application may be filed with the Director and upon such filing, all proceedings, except the publication of notice of the application and the making and filing of the proper affidavit, shall be stayed until the controversy is settled by a competent court, as provided for in the original Section 73 of Commonwealth Act 137, as follows:

"Sec. 73. At any time during the period of publication, any adverse claim may be filed under oath with the Director of the Bureau of Mines, and shall state in full detail the nature, boundaries, and extent of the adverse claim, and shall be accompanied by all plans, documents, and agreements upon which such adverse claim is based. Upon the filing of any adverse claim all proceedings except the publication of notice of application for lease and the making and filing of the affidavits in connection therewith, as herein prescribed, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. \* \* \*"

but that Congress realized that the two sections were defective in the sense that great delays were incurred and so, Congress amended the two sections through Republic Act 4388, as follows:

"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."

"Sec. 73. At any time during the period of publication, any adverse claim may be filed under oath with the Director of Mines, and shall state in full detail the nature, boundaries, and extent of the adverse claim, and shall be accompanied by all plans, documents, and agreements upon which such adverse claim is based; Provided, however, That no adverse claim from any person, association, partnership or corporation, whose protest filed under Section sixty-one of this Act has already been finally decided by the Director of Mines and/or the Secretary of Agriculture and Natural Resources, shall be entertained. Upon the filing of the adverse claim all proceedings except the publication of notice of application for patent or lease and the making and filing of the affidavit in connection therewith as herein prescribed shall be stayed until the controversy shall have been settled or decided in accordance with Section sixty-one of this Act or the adverse claim waived."

with the expressed intention embodied in the explanatory note to the bill that became Republic Act 4388, as follows:

"Sections 61 and 73, which refer to overlapping of claims are amended to expedite the resolution of mining conflicts which constitute one of the impediments to the mining industry. Profitable mining properties are left idle due to delays in litigations over conflicting claims. The decision of the Director of Mines when affirmed by the Secretary of Agriculture and Natural Resources shall be final and conclusive and appealable only to the Court of Appeals or to the Supreme Court, as the case may be. As contemplated in the proposed amendment to Section 73, adverse claims shall be decided by the Director of Mines in accordance with Section 61 of the Mining Act, instead of leaving the matter to the Court of First Instance. Due to thousands of cases, it takes years before the court can decide a case." (Congressional Records, Proceedings and Debates of the Fifth congress, Second Regular Session, Vol. 11. Part II, No. 66, Page 1346)

It is thus made clear, according to the petitioner, that courts have been divested of original jurisdiction to adjudicate adverse claims which, by the amendments, was transferred to the Director of Mines, whose decision may be appealed to the Secretary; and the latter's decision, in turn, may be reviewed by the Court of Appeals or the Supreme Court, as the case may be, so that, in the present case, the Secretary erred in affirming the dismissal by the Director of petitioner's adverse claim.

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.

We see nothing in sections 61 and 73 of the Mining Law that indicates a legislative intent to confer real judicial power upon the Director of Mines. The very terms of section 73 of the Mining Law, as amended by Republic Act No. 4388, in requiring that the adverse claim must "state in full detail the nature, boundaries and extent of the adverse claim" show that the conflicts to be decided by reason of such adverse claim refer primarily to questions of fact. This is made even clearer by the explanatory note to House Bill No. 2522, later to become Republic Act 4388, that "sections 61 and 73 that refer to the overlapping of claims are amended to expedite resolutions of mining conflicts \* \* \*." The controversies to be submitted and resolved by the Director of Mines under the sections refer therefore only to the overlapping of claims and administrative matters incidental thereto.

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 resolve, 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. This ruling, notwithstanding the amendments introduced by Republic Act 4388, is still applicable to the case at bar. The doctrine was stated thus:

"\* \* \*. The powers granted to the Secretary of Agriculture and Commerce by the pertinent provisions of law invoked by petitioners are all of executive and administrative nature, such as granting of licenses, permits, lease, and contracts, or approving, rejecting, reinstating, or cancelling applications, or deciding conflicting applications. The controversies between the parties, as raised in the pleadings in case No. 200 of the Court of

First Instance of Iloilo appear to have arisen upon disagreements in civil or contractual relations between the litigants to which the legal provisions invoked by petitioner are not and cannot be applicable. It should be far-fetched to recognize in the Secretary of Agriculture and Commerce the power of determining whether or not, as alleged by Paranpan, he has been deprived by defendants of the possession of the fishpond in question and of the legal effects of such deprivation, or upon the nature of the two contracts of mortgage in the form of sale with right to repurchase between Sason and Paranpan, as alleged by the defendants, or whether Paranpan has charged Sason with usurious interests. These are questions judicial in nature and only courts of justice can decide them."

But petitioner claims that the Espinosa-Makalintal case cannot be invoked in the present case because there the parcel of land involved was already the object of a lease agreement between the government and the lessee, while here, the "George Claim" has not yet been leased to respondent Zaldivia and, therefore, the mining claim has not passed from the administrative control of the Director of Mines. The objection is without merit, since the question presented in the petitioner's adverse claim is judicial in nature, not a mining conflict, and it is immaterial whether the mining claim in question has or has not passed out of administrative control of the Director of Mines.

WHEREFORE , the petition for review is hereby dismissed and the executive decision under review is affirmed, with costs against petitioner Philex Mining Corporation.

Concepcion, C.J., Makalintal, Zaldivar, Castro, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

Fernando, J., took no part.

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