

**STANDARD MINERAL PRODUCTS, INC., PETITIONER, VS. THE HON.
COURT OF APPEALS, RUFINO DEEUNHONG, PAZ
SUMULONG-TANJUATCO AND EMIGDIO G. TANJUATCO,
RESPONDENTS, REPUBLIC OF THE PHILI...**

G.R. No. L-43277. April 26, 1990

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

A Petition for Review on Certiorari of the Decision of Respondent Appellate Court in CA-G.R. No. 44220-R, affirming the judgment of the former Court of First Instance of Rizal denying surface rights for mining purposes to Petitioner.

Petitioner-Appellant Standard Mineral Products, Inc. (SMPI, for short) claims that it is the locator of placer mining claims "Celia IV" and "Celia VI" containing limestone in Kaysipot, Antipolo, Rizal, which were duly registered in the Office of the Mining Recorder of Rizal on 13 April 1959 (Exhibits "S" and "T") and 3 July 1959 (Exhibits "S-3" and "T-3"). The aforementioned mining claims cover about fifteen (15) hectares of the one hundred-twenty (120) hectares of land registered in the name of Respondent-Appellee, Rufino Deeunhong, under TCT-No. 92665 of the Register of Deeds of Rizal. Although title is in the name of Deeunhong alone, it is a fact that he and his co-Respondents, Paz Sumulong-Tanjuatco and her husband (the Tanjuatcos, for short), are the co-owners in undivided equal shares of the said one hundred-twenty (120) hectare property, as shown by an "Acknowledgment of Trust" executed by Deeunhong (Exhibits "5" and "6"). Collectively, they shall hereinafter be referred to as the Landowners.

After locating the claims, SMPI applied for a mining lease from the Bureau of Mines on 8 May 1959. The Landowners opposed the application on the ground that SMPI had entered their land and filed its mining lease application without their permission. The Bureau of Mines held SMPI's application in abeyance pending submission of the permission of the surface owners. No agreement having been reached by the parties, on 20 December 1965, SMPI brought an action in the Court of First Instance of Rizal against Respondents-Appellees praying that it be granted surface rights for mining purposes over fifteen (15) hectares of the Landowner's property and a right-of-way over a portion of five (5) hectares leading to and covered by the said mining claims.

The Landowners traversed the Complaint, by averring that SMPI is not entitled to the relief demanded because the prospecting was accomplished without previously securing the Landowner's written permission as surface owners as required by Section 27 of the Mining Act (Commonwealth Act No. 137, as amended).

On 29 October 1968, the Trial Court, finding that the mineral claims were not located in accordance with law dismissed the complaint and, on the counterclaim, sentenced SMPI to pay to Deeunhong and the Tanjuatcos actual damages in the sum of P50,000.00 each, attorney's fees of P5,000.00 and costs. The Appellate Court^[1] affirmed that Decision with the sole modification that temperate or moderate damages (not actual damages) of P25,000.00 each were awarded instead.

In another Resolution dated 18 June 1976[2] the Appellate Court likewise denied, for being devoid of legal interest, the Petition for Intervention filed on 23 March 1976 by the Republic of the Philippines through the Solicitor General, claiming that it had filed Civil Case No. 11410 with the then Court of First Instance of Rizal for the reversion to the State of the same property subject of this case.

After SMPI elevated the case to this Court for review on Certiorari, the Republic reiterated its Petition for Intervention, which we granted in the Resolution of 24 November 1976 (p. 215, Rollo).

On 3 July 1985, the Solicitor General manifested that the then Court of First Instance of Rizal decided Civil Case No. 11410 adversely to the Republic, but that said decision is the subject of an appeal in the then Intermediate Appellate Court.

"Considering that the appealed case was closely interrelated with the case at bar, such that the final determination of the rights of the parties herein is dependent and subject to the outcome of this appeal," the Court resolved, on 2 September 1985, to hold this case in abeyance until the then Appellate Court shall have resolved the appeal in Civil Case No. 11410, with the directive to the latter Court to decide the appeal promptly.

On 29 February 1988, the parties were required to inform the Court of the status of the appealed case and whether or not supervening events had transpired which have rendered the case moot and academic.

In its Compliance of 29 March 1988, the Solicitor General manifested that he knew of no such supervening event.

On 23 May 1988, having been informed that the appealed case had not yet been resolved and since the case was not yet ripe for determination, the case was ordered archived.

On 8 December 1989, the private respondents manifested that the Appellate Court had promulgated a decision on 21 September 1989 affirming the dismissal of Civil Case No. 11410 and declaring that the land in question cannot be reverted to the State as it is essentially an agricultural and not a mineral land. This decision became final on 12 October 1989. As the ownership of the land in question has been finally settled, the controversy between the parties is now ripe for determination.

The focal issue for resolution is whether or not SMPI is entitled to surface rights and a right of way to a 15-hectare portion of the Landowners' property covered by SMPI's mining claims for mining purposes. A corollary issue raised is whether or not the Trial Court and the Appellate Court had jurisdiction over the proceedings before them in the light of Section 61 of the Mining Act.

We agree with the declaration of both lower Courts that SMPI is not entitled to said surface rights as it failed to comply with the requisite of prior written permission by the Landowners before entering the private land in question.

Section 27 of the Mining Act explicitly provides:

"Section 27. Before entering private lands the prospector shall first apply in writing for written permission of the private owner, claimant, or holder thereof, and in case of refusal by such private owner, claimant, or holder to grant such permission, or in case of disagreement as to the amount of compensation to be paid for such privilege of prospecting therein, the amount of such compensation shall be fixed by agreement among the prospector, the Director of the Bureau of Mines and the surface owner, and in case of their failure to unanimously agree as to the amount of compensation, all questions at issue shall be determined by the Court of First Instance of the province in which said lands are situated in an action instituted for the purpose by the prospector, or his principal: Provided, however, that the prospector, or his principal upon depositing with the court the sum considered jointly by him and the Director of the Bureau of Mines and the court to be Just compensation for the damages resulting from such prospecting, shall be permitted to enter upon, and locate the

said land without such written permission pending final adjudication of the amount of such compensation; and in such case the prospector, or his principal, shall have a prior right as against the world, from the date of his application. The court in its final judgment, besides determining the corresponding compensation of the damages which may be caused by the prospecting, shall make a pronouncement as to the value and the reasonable rental for the occupation and utilization thereof for mining purposes in case the prospector decides to locate and exploit the minerals found therein." (*Italics ours*)

The purpose of the law is obvious, which is, to prevent trespass on private property. The importance of the written permission of the owner of private land is also apparent from the forms prescribed by the Bureau of Mines for the declaration of location of a mining claim which require the locator to state that the landowner has granted written permission for the prospecting and location of the mining claim if the latter is located on private property.

The subsequent amendments requiring only mere notification to the owner of the private land (Section 2, P.D. No. 512) are not discussed for being inapplicable during the period pertinent to this controversy.

SMPI argues, however, that Section 27 is inapplicable as it never entered the land for the purpose of "prospecting" but already for "locating" a mining claim inasmuch as the limestone deposits were prominently exposed and spread visibly and recognizably on the surface of the land such that there was no need of "entering" the land.' In finding the same to be without merit, suffice it to state that "entering" has to be precede "prospecting"; "prospecting" necessarily precedes "discovery"; and a valid "discovery" is essential for the "location" of a mining claim. As expounded by the Court of Appeals:

"Section 26 of the Mining Act provides that prospecting shall be carried on 'in accordance with the provisions of this Act.' As appellant's prospecting was done in violation of the law, it was an illegal act and the subsequent location of the mining claims was also illegal and null and void. For the Mining Act regards a valid discovery as that which gives the prospector the right to locate a mining claim (Sections 29 and 30), and the validity of a location depends upon compliance with the law.' It is clear, of course that the validity of a location depends upon compliance with the statutes. The law requires that the locator shall act in good faith, and it will not countenance a trespass as the basis of a mining right' (36 Am. Jur. Sec. 77).

SMPI would have us believe that it did not have knowledge of the private ownership of the land. Both the Trial Court and the Appellate Court, however, found as a fact that SMPI knew that the land in question is the property of the Landowners. That is a finding of fact, which we not only find supported by substantial evidence but also conclusive upon us, the well-known exceptions to the rule not obtaining in the case at bar.

SMPI's suggestion that the remedy provided in Section 67 of the Mining Act be applied to it is also unacceptable. This Section itself provides:

"Section 67. Any person authorized to locate a mining claim, having claimed and located a piece of land for mining purposes who has complied with the terms of this Act, may file with the Director of the Bureau of Mines an application under oath for a mining lease thereon, showing such compliance. x x x In the case of an application to lease a mining claim located on private lands, the same shall be accompanied by a written authority of the owners of the land: Provided, however, that in case of refusal of the owner of the land to grant such written authority, the same shall be granted by the court as soon as the applicant deposits the amount fixed as the value of the land and as compensation for any resulting damage or file a bond to be approved by the court sufficient to insure the payment of the rental of the land as determined in accordance with section twenty seven of this Act. Should there have been no proceeding instituted by the applicant as provided for under section twenty-seven of this Act, the court shall determine the value of the land and the compensation for any resulting damage or its reasonable rental for the purposes above mentioned and grant the written authority required herein."

It is evident that the foregoing speaks of lease of a mining claim to which SMPI would neither be entitled for failure to comply with the provisions of the Mining Act and to accompany its application for lease with a written authority of the Landowners. In fact, SMPI left the space provided for the same in its application blank. For the same reasons, authority cannot be granted by the Court, nor can rental be fixed, compliance with the terms of this Act being an indispensable prerequisite.

We proceed to SMPI's averment that its constitutional and statutory rights to use and exploit mineral resources discovered and located by it are being unduly curtailed. Again, we find this submission untenable. No one can dispute that under the Regalian doctrine, minerals found in one's land belong to the State and not to a private landowner (Section 8, Article XIV, 1973 Constitution; Sections 3 and 4, Mining Act). Nonetheless, a condition sine qua non is that the prospecting, exploration, discovery and location must be done in accordance with the law. As it is, SMPI's rights to use and exploit the mineral resources discovered and located never matured because of its omission to comply with a condition precedent. To allow SMPI its claim for surface rights and right of way would be to countenance illegal trespass into private property.

SMPI would also deprive the lower Courts of jurisdiction over the controversy arguing that exclusive jurisdiction to resolve it rests with the Director of Mines (now the Bureau of Mines on Geo-Sciences pursuant to P.D. No. 128) invoking Section 61 of the Mining Act, quoted hereinbelow:

"Section 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 with 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."

Said provision is inapplicable, however, as it refers to "conflicts and disputes arising out of mining locations," which is not the subject matter in the case at bar. The basic issue herein is SMPI's entitlement to surface rights and right of way. The dispute is not a mining conflict. It is essentially judicial, in SMPI's own words. "The present case is not for resolving a conflict, if any, between the 'Celia' claims and the 'Tanjuatco' claims as this is for the Bureau of Mines to decide."

"As the 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 the petitioner mining corporation and the locator and his transferees, the adverse claim is not within the executive or administrative authority of the mining director to resolve, but in the courts" (Philex Mining Corporation vs. Zaldivar, G.R. No. L-29669, 29 February 1972, 43 SCRA 479).

The suit below was not merely for a determination of the amount to be paid for surface rights, as SMP1 contends, inasmuch as the very validity of those surface rights was likewise squarely put in issue.

Of significance, too, is the fact that SMPI filed its action with the Trial Court, actively participated in the hearings therein, but, it was only after a judgment adverse to it was rendered that it raised the issue of jurisdiction. It is now estopped, therefore, from impugning said jurisdiction (Tijam vs. Sibonghanoy, G.R. No. L-21450, 15 April 1968, 23 SCRA 29; Royales vs. Intermediate Appellate Court, G.R. No. L-65072, 31 January 1984, 127 SCRA 470; Philippine National Bank vs. Intermediate Appellate Court, G.R. No. 62831-32, 31 July 1986, 143 SCRA 299).

In the exercise of our discretion, we are reducing the award of temperate damages to P10,000.00 for Deeunhong, and another P10,000.00 for the Tanjuatcos, which we find reasonable under the circumstances.

WHEREFORE, with the sole modification as to the award of temperate damages, which are hereby reduced as indicated, the judgment under review is hereby affirmed in all other respects. No costs.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Justice Crisolito Pascual and concurred in by Justices Magno S. Gatmaitan and Jose G. Bautista.

[2] Ibid.

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