

POLO, YNTE, ANDRES FIANZA, ET AL., PLAINTIFFS AND APPELLANTS, VS. THE NATIONAL POWER CORPORATION, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-17477. December 30, 1961*

Ponente: BAUTISTA ANGELO, J.

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Polo, et. al. claimed to have located sometime in November, 1933 three placer claims situated in Bokod, Benguet, Mt. Province, which he registered in the mining register of said province. On March 30, 1953, Jose Piok, one of the claim owners, filed in their behalf a protest with a contractor of the National Power Corporation objecting to the extracting on the part of the latter of gravel and sand from said placer claims on the ground that the same had been relocated by them not only for gold but also for the gravel and sand that might be found therein. As a consequence, the National Power Corporation registered on July 10, 1953 with the Bureau of Mines an opposition to the relocation of the placer mining claims on the part of protestants alleging that the latter were merely trying to establish the basis on which to claim some compensation from the National Power Corporation. On August 31, 1953, the Director of Mines addressed a letter to Jose Piok advising him of the opposition of the National Power Corporation and requiring the claim owners he was representing to file an answer to said opposition with the advice that the incident would be set for hearing sometime later.

After seeking pertinent data regarding the disputed mining claims, the National Power Corporation, thru its general manager, addressed on June 21, 1954 a letter to the Secretary of Agriculture and Natural Resources, thru the Director of Mines, requesting Information as to whether said claims might be deemed as abandoned and forfeited. On August 14, 1954, the placer claim owners wrote the Director of Mines requesting that they be given 10 days within which to submit memorandum to support their contention that their claims have not been forfeited or abandoned wherein it was insinuated that once the said memorandum is submitted the matter would then be ripe for "an opinion or decision" on the part of the Director of Mines on the status of said mineral claims. On August 22, 1955, the Director of Mines advised the National Power Corporation that the claim owners, represented by counsel, presented evidence in support of their contention, who in addition submitted a memorandum in support thereof. On December 20, 1955, the Director of Mines forwarded to the Secretary of Agriculture and Natural Resources his written opinion on the status of the mining claims in question in the form of an indorsement wherein, after a mature study of the questions raised and the evidence submitted by the claim owners as well as of the other officials called to testify in the investigation conducted for the purpose, he held "that the claim owners herein have already lost whatever rights they might have to the three placer claims in question." He further held that "the area covered by these claims is no longer open to relocation or new location as the same has been reserved for water-power purposes of the National Power Corporation." Copy of this ruling was served on the counsel of the claim owners on January 5, 1956 when on said date he went to the Office of the Director of Mines to inquire about the action taken by said official on the status of the mineral claims in question. On January 13, 1956, the Under-Secretary of Agriculture and Natural Resources returned to the Director of Mines

said first indorsement concurring in the ruling laid down by him. In view of such ruling, the general manager of the National Power Corporation informed the counsel of claim petitioners that, inasmuch as the decision of the authorities concerned is to the effect that the rights of his clients to the mineral claims in question had already been lost, he was considering the matter closed. Hence, on September 5, 1956, Polo, et al. commenced the present action before the Court of First Instance of the City of Baguio praying that they be declared the rightful owners of the placer mineral claims alleged in the complaint and that defendants be ordered to pay them the value of said claims in the amount of P192,000.00.

Defendants, in their answer, alleged that plaintiffs had already lost whatever rights they had to the claims in question as the area covered by the same was no longer open to relocation and the same had been reserved for water-power purposes by the National Power Corporation; that plaintiffs having filed the instant action beyond the period of 30 days from their receipt of the decision of the Director of Mines, said decision had already become final and binding upon plaintiffs; and that the lower court had no jurisdiction over the case since plaintiffs' cause of action had already prescribed. And having defendants moved that the court rule on the prejudicial question raised relative to the court's lack of jurisdiction as averred in their answer, the lower court issued on April 28, 1958 an order dismissing the complaint on the ground that it has no jurisdiction over the case in view of plaintiffs failure to file it before the expiration of 30 days from their receipt of the decision of the Secretary of Agriculture and Natural Resources. Hence, the present appeal which was certified to us by the Court of Appeals on the ground that it merely involves questions of law.

Section 61 of Commonwealth Act No. 137, as amended by Republic Act No. 746, reads 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 the 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 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."

It would appear from the above that in case 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 over a conflict or dispute which arises out of a mining location the matter may be taken to the court of competent jurisdiction within 30 days from receipt of such order or decision, otherwise the same shall become final and binding upon the parties concerned. Here there is no dispute that the required period of 30 days had already lapsed when appellants actually instituted the present action, and such being the case it would appear that the court a quo was correct in ruling that the action of appellants is already lost and the case should be dismissed.

But appellants now contend that the controversy which was submitted to the Director of Mines for determination is not one which comes within the purview of the legal provision above-quoted for the reason that the same does not refer to a conflict or dispute that arises out of a mining location. Thus, they contend that said legal provision only contemplates a case where one party lays claim to certain rights over a mining location and another party lays claim to the same rights or interest therein. In other words, they express the view that there is no conflict or dispute arising out of the mine location when one of the parties is not a locator, owner, or transferee of a mining claim.

We disagree with this view. In order that there may be a conflict or dispute arising out of a mining location it is not necessary that there be two parties claiming the same rights over the same mining claim. This would be a very narrow interpretation of the law for otherwise there would be many conflicts or disputes which even if they refer

to mining claims cannot be considered as such because they are not disputed by two locators, owners or transferees. In our opinion, when one party, though not a locator or transferee of a mining claim, but whose rights may be affected or impaired by the claim of a mining locator, disputes the status of such mining claim either because of failure to comply with the requirements of the law or because of forfeiture or abandonment, and submits the matter to the Director of Mines for decision, there is a dispute arising out of a mining location within the purview of the law, and this is so because, by the very nature of the controversy, the matter has to be submitted to the Director of Mines for decision before any of parties could go to court for relief in connection with the controversy. And such is the situation that obtains herein.

Thus, as found by the court a quo: "The admitted facts are that when Plaintiffs sought to locate placer claims along the Agno River which would subsequently be flooded by the waters of the Ambuklao Dam, Defendant presented an opposition to these placer mining claims before the Bureau of Mines. Plaintiffs were given 15 days to file sworn answers to this opposition of Defendant. The Answers were properly filed by Plaintiffs and thereafter the Bureau of Mines conducted a hearing wherein Plaintiffs, through counsel, presented evidence, oral and documentary, to support their claims and Defendant in turn also presented testimony of mining engineers and geologists to support its theory of forfeiture. Thereafter, the Director of Mines made an indorsement to the effect that Plaintiffs had lost all rights to their placer mining claims and that the same were no longer subject of relocation. The Undersecretary of Agriculture and Natural Resources concurred with this opinion. Plaintiffs received copy of this indorsement on January 5, 1956. More than 30 days passed when Plaintiffs finally came to this Court and filed an original action on September 7, 1956."

It cannot, therefore, be denied that appellees disputed the claim of ownership of appellants over the placer claims in question on the basis not only of their allegation that appellants had already abandoned their rights to said claims because of failure to comply with the requirement relative to the assessment work to be done but of their claim that the pertinent area has already been reserved to the government for the development of power since 1936. Common sense dictates that that is a dispute that pertains to a mining claim. As such, it is a matter that has to be submitted to the Director of Mines for decision. It is therefore a case that comes within the purview of Section 61 of Commonwealth Act 137, as amended.

The contention that the administrative investigation conducted by the Director of Mines on the claims in question cannot be considered as such because it was not initiated in the form of a complaint, nor was it docketed nor numbered, nor was a docket fee paid, as required by Mines Administrative Order No. B-9, is of no avail not only because it is merely a matter of form that cannot divest it of its character as mining controversy, but also because said administrative order was approved only on May 24, 1956, much after this matter was investigated and decided by the Director of Mines. Nor can the fact that the decision of this official was merely contained in an indorsement deprive it of its character as such thus sacrificing substance to form. As a matter of fact, it has all the earmarks of a decision and was regarded as such by all parties concerned, including appellants.

It is true that the present action was instituted by appellants to recover damages as a result of their deprivation of the placer claims in question which is a matter that comes under the jurisdiction of the court a quo, but this claim is merely an incident of their main theme that they are the rightful owners of the mining claims of which they were divested by the Director of Mines. The jurisdiction of the court a quo over the main claim having failed, its jurisdiction over the incidental claim must also fail. Hence, this contention has no merit.

Wherefore, the order appealed from is affirmed, without costs.

Bengzon, C.J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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