

**SANTA ROSA MINING COMPANY, INC., PETITIONER, VS. HON. MINISTER OF NATURAL RESOURCES JOSE J. LEIDO, JR. AND DIRECTOR OF MINES JUANITO C. FERNANDEZ, RESPONDENTS.**

*G.R. No. L-49109. December 01, 1987*

Ponente: PADILLA, J.

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**PADILLA, J.:**

This is a special civil action for certiorari and prohibition with prayer for a writ of preliminary injunction, to declare Presidential Decree No. 1214 unconstitutional and to enjoin respondent public officials from enforcing it. On 19 October 1978, the Court required the respondents to comment on the petition and issued a temporary restraining order continuing until otherwise ordered by the Court.

Petitioner Santa Rosa Mining Company, Inc. (petitioner, for short) is a mining corporation duly organized and existing under the laws of the Philippines. It alleges that it is the holder of fifty (50) valid mining claims situated in Jose Panganiban, Camarines Norte, acquired under the provisions of the Act of the U.S. Congress dated 1 July 1902 (Philippine Bill of 1902, for short).

On 14 October 1977, Presidential Decree No. 1214 was issued, requiring holders of subsisting and valid patentable mining claims located under the provisions of the Philippine Bill of 1902 to file a mining lease application within one (1) year from the approval of the Decree. Petitioner accordingly filed a mining lease application, but "under protest", on 13 October 1978, with a reservation annotated on the back of its application that it is not waiving its rights over its mining claims until the validity of Presidential Decree No. 1214 shall have been passed upon by this Court[1].

On 10 October 1978, or three (3) days before filing the disputed mining lease application, petitioner filed this special civil action for certiorari and prohibition, alleging that it has no other plain, speedy and adequate remedy in the ordinary course of law to protect its rights (except by said petition). Petitioner assails Presidential Decree No. 1214 as unconstitutional in that it amounts to a deprivation of property without due process of law.

Petitioner avers that its fifty (50) mining claims had already been declared as its own private and exclusive property in final judgments rendered by the Court of First Instance of Camarines Norte (CFI, for short) in land registration proceedings initiated by third persons, such as, a September 1951 land title application by a certain Gervacio Liwanag, where the Director of Mines opposed the grant of said application because herein petitioner, according to him (Director of Mines), had already located and perfected its mining claims over the area applied for. Petitioner also cites LRC Case No. 240, filed 11 July 1960, by one Antonio Astudillo, and decided in 1974 against said applicant, in which, petitioner's mining claims were described as vested property outside the jurisdiction of the Director of Mines[2].

In answer, the respondents allege that petitioner has no standing to file the instant petition as it failed to fully exhaust administrative remedies. They cite the pendency of petitioner's appeal, with the Office of the President, of the ruling of the respondent Secretary of Natural Resources issued on 2 April 1977 in DNR Case No. 4140, which

upheld the decision of the Director of Mines finding that forty four (44) out of petitioner's fifty (50) mining claims were void for lack of valid "tie points" as required under the Philippine Bill of 1902, and that all the mining claims had already been abandoned and cancelled, for petitioner's non-compliance with the legal requirements of the same Phil. Bill of 1902 and Executive Order no. 141[3].

We agree with respondents' contention that it is premature for the Court to now make a finding on the matter of whether petitioner had abandoned its mining claims. Until petitioner's appeal shall have been decided by the Office of the President, where it is pending, petitioner's attempt to seek judicial recognition of the continuing validity of its mining claims, cannot be entertained by the Court. As stated by the Court, through Mr. Justice Sabino Padilla in *Ham v. Bachrach Motor Co. Inc.*[4], applying the principle of exhaustion of administrative remedies: "By its own act of appealing from the decision of the Director of Lands and the Secretary of Agriculture and Natural Resources to the President of the Philippines, and without waiting for the latter's decision, the defendant cannot complain if the courts do not take action before the President has decided its appeal"[5].

The decisions of the Court of First Instance of Camarines Norte in applications for land registration filed by third persons covering the area over which petitioner had located and registered its mining claims, as cited by petitioner, are inapplicable. Said decisions merely denied the applications of such third persons for land registration over areas already covered by petitioner's mining claims, for failure to show titles that were registrable under the Torrens system; that was all. While the CFI made a statement in one case declaring that the petitioner's mining claims are its vested property and even patentable at that time, there is nothing in said CFI decision that squarely passed upon the question of whether petitioner had valid, patentable (but still unpatented) mining claims which it had continued to maintain, in compliance with the requirements of applicable laws. This question which involves a finding of facts, is precisely the issue before the Office of the President in the petitioner's appeal from the decision of the Secretary of Natural Resources in DNR Case No. 4140 holding that petitioner's mining claims are considered abandoned and cancelled for failure of petitioner to comply with the requirements of the Philippine Bill of 1902 and Executive Order no. 141. In short, the decisions of the Court of First Instance of Camarines Norte, relied upon by petitioner, do not foreclose a proceeding, such as DNR Case No. 4140, to determine whether petitioner's unpatented mining claims have remained valid and subsisting.

Respondents further contend that, even assuming *arguendo* that petitioner's mining claims were valid at the outset, if they are deemed abandoned and cancelled due to non-compliance with the legal requirements for maintaining a perfected mining claim, under the provisions of the Philippine Bill of 1902[6], petitioner has no valid and subsisting claim which could be lost through the implementation of Presidential Decree no. 1214, thus giving it no standing to question the Decree.

Petitioner, on the other hand, would rebut respondents' argument by declaring that it already had a vested right over its mining claims even before Presidential Decree No. 1214, following the rulings in *McDaniel v. Apacible*[7] and *Gold Creek Mining Corp v. Rodriguez*[8].

The Court is not impressed that this is so.

The cases cited by petitioner, true enough, recognize the right of a locator of a mining claim as a property right. This right, however is not absolute. It is merely a possessory right, more so, in this case, where petitioner's claims are still unpatented. They can be lost through abandonment or forfeiture or they may be revoked for valid legal grounds. The statement in *McDaniel v. Apacible* that "There is no pretense in the present case that the petitioner has not complied with all the requirements of the law in making the location of the mineral claims in question, or that the claims in question were ever abandoned or forfeited by him"[9], confirms that a valid mining claim may still be lost through abandonment or forfeiture.

The petitioner can not successfully plead the ruling in *Gold Creek Mining Corp. v. Rodriguez*, supra. In that case, what was in issue was Gold Creek's right to a patent over its mining claim, after compliance with all legal requirements for a patent. In the present case, no application for patent is in issue, although as a holder of patentable mining claims petitioner could have applied for one during all these years but inexplicably did not do so. In *Gold Creek*, no finding of abandonment was ever made against the mining claimant as to deprive it of the initial privilege given by virtue of its location; on the other hand, such a finding has been made in petitioner's case (although the finding among others is on appeal with the President).

We now come to the question of whether or not Presidential Decree No. 1214 is constitutional. Even assuming arguendo that petitioner was not bound to exhaust administrative remedies on the question of whether or not its mining claims are still subsisting (not abandoned or cancelled), before challenging the constitutionality of said Decree, we hold that Presidential Decree No. 1214 is not unconstitutional<sup>[10]</sup>. It is a valid exercise of the sovereign power of the State, as owner, over lands of the public domain, of which petitioner's mining claims still form a part, and over the patrimony of the nation, of which mineral deposits are a valuable asset. It may be underscored, in this connection, that the Decree does not cover all mining claims located under the Phil. Bill of 1902, but only those claims over which their locators had failed to obtain a patent. And even then, such locators may still avail of the renewable twenty-five year (25) lease prescribed by Pres. Dec. No. 463, the Mineral Development Resources Decree of 1974.

Mere location does not mean absolute ownership over the affected land or the mining claim. It merely segregates the located land or area from the public domain by barring other would-be locators from locating the same and appropriating for themselves the minerals found therein. To rule otherwise would imply that location is all that is needed to acquire and maintain rights over a located mining claim. This, we cannot approve or sanction because it is contrary to the intention of the lawmaker that the locator should faithfully and consistently comply with the requirements for annual work and improvements in the located mining claim.

Presidential Decree No. 1214 is in accord with Sec. 8, Art. XIV of the 1973 Constitution which states:

"All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, wildlife, and other natural resources of the Philippines belong to the State. With the exception of agricultural, industrial or commercial, residential and resettlement lands of the public domain, natural resources shall not be alienated, and no license, concession, or lease for the exploration, development, exploitation, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for not more than twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases, beneficial use may be the measure and the limit of the grant".

The same constitutional mandate is found in Sec. 2, Art. XII of the 1987 Constitution, which declares:

"All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. x x x

WHEREFORE, premises considered, the petition is hereby **DISMISSED**. The temporary restraining order issued by the Court on 19 October 1978 is **LIFTED** and **SET ASIDE**. Costs against the petitioner.

**SO ORDERED.**

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Bidin, Sarmiento, and Cortes, JJ., concur.

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[1] Rollo, at 313.

[2] Rollo, at 106. A portion of the CFI decision in LRC No. 240 reads:

"Since it is abundantly clear that the 59 mining claims of the Sta. Rosa Mining Co. have all been located and registered under the law obtaining prior to the effectivity of the Constitution of 1935. Sta Rosa's claim under these mining claims are, in the language of the Supreme Court, vested property and is outside the jurisdiction of Director of Mines. As such vested property, they can be sold, transfered, and even passed by descent. A patent may now even be issued covering these 59 claims".

[3] Executive Order No. 141, "Declaring Unpatented Mining Claims Which Were Located More Than Thirty Years Ago and Which Have Not Met the Annual Assessment Requirement As Abandoned and their Declarations of Location Cancelled". Published in 64 O.G. No. 35, at 8811, 26 August 1968.

[4] 109 Phil. 949 (1960)

[5] Id at 957

[6] Philippine Bill of 1902. Sec. 36: "xxx On each claim located after the passage of this Act and until a patent has been named therefore, not less than one hundred dollars' worth of labor shall be performed, or improvements made during each year: PROVIDED, That upon such failure to comply with these conditions the claim or mine upon which failure occurred shall be opened to relocation in the same manner as if no location of the same has ever been made, provided, that the assigned locators their heirs, assigns, or legal representatives have not resumed work upon the claim after failure and before such location."

[7] 42 Phil. 749 (1922)

[8] 66 Phil. 259 (1938)

[9] Id. at 754 (Emphasis supplied)

[10] The relevant provisions of this Decree are as follows:

SEC. 1. Holders of subsisting and valid patentable mining claims, lode or placer, located under the provisions of the Act of Congress of July 1, 1902, as amended, shall file a mining lease application therefor with the Mines Regional Director upon approval of this Decree, and upon the filing thereof, holders of the said claims shall be considered to have waived their rights to the issuance of mining patents therefor: Provided, however, That the non-filing of the application for mining lease by the holders thereof within the period herein prescribed shall cause the forfeiture of all his rights to the claim.

SEC. 2. No mines temporary permit shall be required of a holder of a patentable mining claim, lode or placer, in the extraction and disposal of minerals taken therefrom prior to the filing of the mining lease application therefor: Provided, That upon the filing of the said application, the provisions of Presidential Decree No. 463 shall apply: Provided, further, That patent applications already published shall be exempted from the publication requirements of Presidential Decree No. 463.

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