

**SAN MAURICIO MINING COMPANY, MARSMAN AND COMPANY, INC.,
AND PEDRO L. MOYA, PETITIONERS-APPELLANTS, VS. HONORABLE
CONSTANTE A. ANCHETA, AS PRESIDING JUDGE OF BRANCH III,
COURT OF...**

G.R. Nos. L-47859 & L-57132. July 10, 1981

Ponente: BARREDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a0f4fa277430/>

BARREDO, J.:

Petition for review by way of appeal under Republic Act 5440 of the partial judgment rendered by respondent Court of First Instance of Camarines Norte, Branch III and dated September 22, 1957 in its Civil Case No. 2882, an action for annulment of contract and specific performance entitled Philippine Smelters Corporation vs. San Mauricio Mining Company, et al., which subsequently was overtaken and consolidated with the appeal of the final judgment of the same case by the same judge rendered on August 21, 1979, which although first appealed to the Court of Appeals, by motion of the appellees, to which appellants expressly manifested they had no objection, was ordered by Us to be forwarded to this Court in our resolution of March 12, 1980. At that time, the briefs of appellants San Mauricio Mining and Marsman & Co., and Pedro Moya, who came later as an intervenor, as well as that of Philippine Smelters Corporation, as appellee, had already been filed with the Court of Appeals, (but sent to this Court with the record of the other case.) and so, only the reply brief of appellants was filed directly with this Court followed in due time by the Rejoinder to Appellant's Brief filed by appellee dated July 18, 1980. No further pleading appears in the record to have been filed by appellants.

For reasons that would be obvious later in this decision, and considering the view We are taking of the appeal of the final judgment of the trial court of August 21, 1979, We will first dispose of the said later appeal. Our decision of the latter will make the petition for review of the partial judgment virtually moot and academic.

The subject matter of these cases refer to a parcel of land located at Panganiban, Camarines Norte, with an area appearing to be a little over 200 hectares. It was titled in the name of herein respondent-appellee Philippine Smelters Corporation, hereinafter to be referred to as SMELTERS, in Transfer Certificate of Title No. 13060 of the Office of the Register of Deeds of Camarines Norte by virtue of deed of sale in its favor executed on December 29, 1975 by the National Shipyards and Steel Corporation, hereinafter to referred to as NASSCO, the then holder of Torrens Title OCT 0440 over the same. Later on, however, SMELTERS subdivided the property into several lots and obtained in consequence Transfer Certificates of Title Nos. 13502 to 13521, inclusive.

The controversy over said property started on February 28, 1977, because prior to that date, or, to be more exact, on August 16, 1976, herein petitioners(1) San Mauricio Mining Company, hereinafter to be referred to as SAN MAURICIO, and Marsman & Company, Inc., hereinafter to be referred to as MARSMAN, caused, thru their co-petitioner(1-a) Pedro L. Moya, to be annotated first on the original title of NASSCO, then on the first title of SMELTERS, an annotation of adverse claim, which was subsequently carried over in its later titles. In brief, the thrust of the said annotation was the claim of SAN MAURICIO and MARSMAN that, inter alia, (1) on November

23, 1973, a contract of sale and assignment of rights over the same property was executed by NASSCO in favor of SAN MAURICIO; (2) on June 26, 1975, NASSCO also executed a deed of assignment of rights over part thereof in favor of MARSMAN; and (3) by virtue of a sheriff's certificate of sale, MARSMAN acquired the mining rights, claims, and improvements over the entire area which were previously foreclosed by MARSMAN, hence, the owner thereof became MARSMAN and NASSCO had no right at all to transfer it to SMELTERS. (See pp. 2-3 of Appellants' Brief.)

And so, on said date, February 28, 1977, SMELTERS filed the herein subject complaint with the trial court, as Civil Case No. 2882, asking for "Removal of Cloud over (its) Torrens Certificates of Title, (and) Declaration of Nullity of Adverse Claim and (for) Damages".

In their answer, SAN MAURICIO and MARSMAN alleged that on November 19, 1957 SAN MAURICIO executed in favor of NASSCO a deed of absolute sale of the "surface rights" over 144.62 hectares of land covering its twenty mineral claims in Jose Panganiban, Camarines Norte (meaning part of the land in question), "subject to a collateral understanding between them to the effect that when NASSCO stops operation of the smelting plant thereon, or abandons the cite, SAN MAURICIO would have the first option to reacquire the 'surface rights over its said mineral claims and all the improvements thereon', and that pursuant to said collateral agreement, on November 23, 1973 NASSCO reconveyed to it for a consideration of P200,000.00 the so-called 'surface rights, etc.' and (further), that on June 26, 1975, NASSCO further reconveyed to MARSMAN, as successor-in-interest of SAN MAURICIO, all the 'surface rights' over the mineral claims of the latter --embracing an (additional) area of 32.595 hectares." (Underlining Ours)

And most important of all, defendants claimed that "long prior to the sale executed by SAN MAURICIO -- in favor of NASSCO dated November 19, 1957, the first had valid and subsisting load claims staked by it within the area in dispute herein, under and pursuant to the provisions of the Act of Congress of July 1, 1902, a list of which together with the particulars of each claim appear-ing in Annex A-6 of the complaint, that MARSMAN -- having succeeded to all the rights and interests of SAN MAURICIO over the said claims duly applied for recognition of its mining rights pursuant to Section 101 of Presidential Decree No. 463 and by order of the Director of Mines of September 23, 1976, (?) duly recognized the mining rights of the defendant MARSMAN --" (Underlining Ours) Thus, defendants and herein appellants SAN MAURICIO and MARSMAN, posit in conclusion that the sale made by NASSCO in favor of plaintiff, (herein appellee) dated December 29, 1975, ---covering the properties embraced by the mineral claims of the (said) defendants --is null and void---"

Evidently to reenforce their position in their answer, on May 17, 1977, SAN MAURICIO and MARSMAN filed a third-party complaint against NASSCO, the Director of Lands, the Commissioner of Land Registration and the Register of Deeds of Camarines Norte, alleging inter alia (and in a more detailed manner) that SAN MAURICIO, for and in consideration of the sum of P200,000.00 executed in favor of NASSCO a Deed of Absolute Sale of the surface rights over 144.62 hectares of land covering 20 of its alleged patentable lode claims situated in Jose Panganiban, Camarines Norte, allegedly located by its predecessors-in-interest under and pursuant to the provisions of the Act of Congress of July 1, 1902, together with all the improvements thereon, to enable the government to implement the decision of the then National Economic Council, pursuant to the provisions of the Republic Act No. 1396, choosing Jose Panganiban, Camarines Norte to be the site of the first pig iron smelting plant in the Philippines; that there was a collateral agreement in said Deed of Absolute Sale between SAN MAURICIO and NASSCO to the effect that when NASSCO stops the operation of the smelting plant or abandon the site, or whenever in the judgment of NASSCO the area as acquired from SAN MAURICIO is in excess of its actual needs, SAN MAURICIO would have the option to reacquire from NASSCO the surface rights over its mineral lode claims and all improvements thereon.

"It is further alleged that in November, 1973, NASSCO, for economic and technological reason stopped the operation of smelting plant, and in the meantime, SAN MAURICIO decided to develop its mineral lode claims in the area in view of which SAN MAURICIO applied with NASSCO for the repurchase of the surface rights and improvements transferred by it under the Deed of Absolute Sale of November 19, 1957, subject to retention by NASSCO of such surface rights as it may still need for its actual requirements. Pursuant to said request of SAN MAURICIO, NASSCO supposedly reconveyed to SAN MAURICIO on November 23, 1973, all its rights and interests over the surface rights covering the 12 mineral lode claims of SAN MAURICIO as listed in the said deed for P200,000.00 and a Contract of Sale and Assignment of Rights was executed in favor of SAN MAURICIO. The Contract of Sale and Assignment of Rights was supposed to have been approved by the Office of the President on January 15, 1974 under the first endorsement of the same date of the Assistant Executive Secretary, Mr. Rolando B. Zamora. On October 21, 1974 MARSMAN acquired all the rights, title and interests of SAN MAURICIO in and to all the patentable mining claims of the latter in Jose Panganiban including all the surface rights and improvements acquired by NASSCO from SAN MAURICIO under the Deed of Sale of November 19, 1957, as the highest bidder for the sum of P3,961,935.75 at the public auction thereof, conducted by the Provincial Sheriff of Camarines Norte; that on April 30, 1975 and May 29, 1975, MARSMAN sent to NASSCO a communication whereby MARSMAN offered to repurchase from NASSCO all such rights and improvements thereon which are in excess of the actual needs of NASSCO, MARSMAN having decided to continue and pursue the development of the mineral lode claims acquired it and NASSCO, in consideration of the fact that its smelting plant only needed about 10 hectares out of the area facing the Mambulao Bay, agreed by a Deed of Assignment of Rights dated June 26, 1975 to assign to MARSMAN the surface rights over the mineral lode claims described, registered in the name of SAN MAURICIO covering 32,575 hectares, together with all improvements thereon for and in consideration of the sum of P32,595.50. The aforesaid Deed of Assignment of Rights executed by NASSCO in favor of MARSMAN was approved allegedly by authority of the President on July 1, 1975.

"The Third-party complaint also states that on June 23, 1975, MARSMAN paid the sum of P45,000.00 by way of compensation or amicable settlement in connection with Civil Case No. 1613, entitled 'Victor delos Santos and Amparo P. delos Santos and Amparo P. delos Santos vs. San Mauricio Mining Company and National Shipyards and Steel Corporation,' before the Court of First Instance of Camarines Norte, and acquired from plaintiff therein (Amparo P. delos Santos) that certain parcel of land together with the improvements thereon of her private ownership, having an aggregate area of 13,5244 (sic) hectares; that on July 4, 1975, SAN MAURICIO and MARSMAN, for and in consideration of P40,000.00 paid by them by way of compromise or settlement in Civil Case No. 1452, entitled 'Gregorio Bamba, Sr. vs. San Mauricio Mining Company and National Shipyards and Steel Corporation,' for certain parcels of land acquired by Gregorio Bamba from his predecessors with an aggregate area of 22 hectares; that within the area covered by the aforementioned deeds, MARSMAN and SAN MAURICIO had located, staked, registered, occupied, explored and exploited pursuant to the Act of Congress of the United States of July 1, 1902, patentable mineral lode claims more particularly described therein, which lode claims were applied for by MARSMAN for recognition of mining rights pursuant to Section 101 of PD 463.

"MARSMAN and SAN MAURICIO alleged further that on December 29, 1975, NASSCO, claiming title and ownership over a parcel of land consisting of 170.2890 hectares situated in Jose Panganiban under and by authority of PD 837 transferred and conveyed ownership thereto in favor of SMELTERS for and in consideration of P85,144.50 under a Deed of Sale executed by NASSCO in favor of SMELTERS, together with a certain area of about 50 hectares, which embraces all the mineral lode claims, surface rights and improvements belonging to MARSMAN and SAN MAURICIO; that under the provisions of PD 843 (this should be 837), the Bureau of Lands was directed to resurvey the property where it was found that the area was 170.2890 hectares only but actually it was made to appear that the area of 202.1945 hectares or 32 hectares in excess of that legally

authorized under PD 837; that pursuant to said PD, the Commissioner of Land Registration issued the corresponding decree which served as the basis for the issuance by the Register of Deeds of Camarines Norte covering transfer Certificate of Title No. 0440 on August 6, 1976, in the name of NASSCO which was cancelled by Transfer Certificate of Title No. T-13060 in the name of SMELTERS, which covers not only 170.2890 hectares as authorized by PD 837 not 202.1945 hectares as shown in Plan Pad-252381 but actually 202.3 hectares, subdivided into 21 lots or 50 hectares in excess of the area delimited in PD 837; that the Deed of Sale dated December 29, 1975 between NASSCO and SMELTERS, as well as Original Certificate of Title No. 0440, including but not limited to Transfer Certificate of Title Nos. 13060 and 13502 to 13521 are null and void in that:

"(a) They all cover mineral lode claims located, registered, occupied, explored and exploited by MARSMAN and its predecessors in interest, pursuant to and in accordance with the Act of Congress of July 1, 1902, the validity of its mining rights thereunto having been recognized and approved Order of the Director of Mines of September 23, 1976, Annex 9, pursuant to the provisions of Section 101 of Presidential Decree No. 483, which rights are still subsisting and in full force and effect, with all dues, assessments and taxes due to the government fully paid up to this date by MARSMAN and by law and established jurisprudence are no longer subject to disposition under the Public Land Act (*Mc Daniel v. Apacible and Cuista*, 43 Phil. 749; *Gold Greek Mining Co. vs. Rodriguez*, 66 Phil. 259, 265-266; *Salacot Mining v. Rodriguez*, 67 Phil. 97).

"(b) NASSCO, by a Contract of Sale and Assignment of Rights of November 23, 1973 duly approved by the Office of the President, Annex 2, previously sold and assigned in favor of SAN MAURICIO, for the sum of P200,000.00, 93.518 hectares of surface rights, including all improvements thereon, over 12 mineral claims as therein listed, which are all embraced by the aforesaid sale made by NASSCO in favor of the plaintiff on December 29, 1975, Annex 11;

"(c) NASSCO, by a Deed of Assignment and Quitclaim of June 26, 1975, duly approved by the Office of the President, Annex 4, had previously sold and assigned in favor of SAN MAURICIO, for the sum of P32,595.50, 32.575 hectares of surface rights, including all improvements thereon, over five (5) mineral claims as therein listed, also all embraced by the aforesaid sale made by NASSCO in favor of the plaintiff on December 29, 1975, Annex 11;

"(d) NASSCO, as a party defendant in Civil Case No. 1613; entitled 'Victor delos Santos and Amparo delos Santos vs. San Mauricio Mining Company and National Shipyards and Steel Corporation, before the Court of First Instance of Camarines Norte, is bound by the compromise settlement therein reached whereby Amparo P. delos Santos sold to MARSMAN for the sum of P45,000.00, 13.52 hectares of per private ownership under a Deed of Assignment dated June 23, 1975, Annex 5, which is also within the area object of the subsequent sale, Annex 11, made by NASSCO in favor of the plaintiff on December 29, 1975;

"(e) NASSCO, as a party defendant in Civil Case No. 1452, entitled Gregorio Bamba, Sr., vs. San Mauricio Mining Company and National Ship-yards and Steel Corporation, before the Court of First Instance of Camarines Norte, is likewise bound by the compromise settlement therein reached whereby the Heirs of Gregorio Bamba, Sr., sold to SAN MAURICIO and MARSMAN for the sum of P40,000.00, 22 ha., on July 4, 1975, Annex 6, which is also within the area object of the subsequent sale, Annex 11, made by NASSCO in favor of the plaintiff on December 29, 1975;

"(f) NASSCO is bound by its collateral agreement with SAN MAURICIO, acknowledge by it (NASSCO) in its Contract of Sale in favor of SAN MAURICIO of November 23, 1973, Annex 2, and its Deed of Assignment in favor of SAN MAURICIO of June 26, 1975, Annex 4, granting SAN MAURICIO, for valuable consideration, the first right of option to reacquire from NASSCO all the surface rights over its mineral claims and all improvements thereon if and when NASSCO ceases operating its smelting plant, which right of option was never waived or otherwise abrogated;(2)

"(g) NASSCO's act in selling as it did herein, the same property twice to different entities and for valuable

consideration received from both is, a clear and palpable violation of law and the constitutional precept of inviolability of Contracts;

"(h) NASSCO's act purportedly under P.D. 843 (sic) in selling to the plaintiff the properties in question, the ownership of which have previously become vested in MARSMAN and its predecessors in interest pursuant to the provisions of the Constitution and the law, constitutes an unlawful divestment of property rights without due process of law; and

"(i) NASSCO'S act in selling the properties in question to the plaintiff under the Deed of Sale, Annex 11, was not expressly authorized by the Office of the President, unlike the previous Deeds of Sale and Assignment in favor of SAN MAURICIO, Annexes 2 and 4, which were expressly approved by authority of the President.

"In the same Third-party complaint, defendants SAN MAURICIO and MARSMAN stated that on May 2, 1975, long before NASSCO executed the Deed of Sale of the properties in favor of SMELTERS, said defendants entered into an operating agreement with METALS EXPLORATION ASIA, INC., for the development and exploitation of, among others, the mineral lode claims referred to in the Third-party complaint." (2-a)

On June 29, 1977 this third-party complaint was admitted by the court.

Answering the third-party complaint, NASSCO alleged as affirmative defenses that:

"11. It incorporates by reference all the material allegations contained in the foregoing paragraphs of this Answer;

"12. The parcel of land, sold by NASSCO to the plaintiff was part of the public domain the ownership and title to which was transferred and invested upon it by Presidential Decree No. 837 issued on December 6, 1975;

"13. NASSCO could not have sold twice to different entities the parcel of land referred to in paragraph immediately preceding specially con-sidering that it was only on December 6, 1975, that NASSCO became the owner of said land;

"14. NASSCO merely allowed the Third party defendant to repurchase surface rights over the mineral lode claims, as the land was part of the public domain the ownership of which did not belong to NASSCO;

"15. The Deed of Assignment of Rights dated June 26, 1975, executed by NASSCO in favor of MARSMAN was approved with the condition that the government has reserved the right to withdraw any time, the use of the surface rights by the assignee;

"16. The sale of the parcel of land by NASSCO in favor of the plaintiff is authorized under Section 3 of Presidential Decree No. 837 which modified and/or repealed Proclamation No. 500;

"17. The sale of the subject parcel of land by NASSCO to the plaintiff was approved by the President on January 6, 1976;

"18. The corporate existence of NASSCO expired on January 6, 1976 and therefore it has lost its juridical personality to be sued;

"19. Being strangers to the contract of sale between Third-party defendant NASSCO and the plain-tiff herein, third party plaintiffs have no personality to impugn the validity of the contract;

"20. As NASSCO was already legally inexistent at the time of the filing of the Third-party complaint, the Court has not acquired jurisdiction over the case (Domingo v. Yatco, L-11874, June 27, 1958);

"21. Third party plaintiffs are not entitled to the relief prayed for under the facts of the case.

"22. The acts of Third party defendant NASSCO have all been in accordance and in compliance with clear

mandate of the laws;" (Pp. 730-731, Record)

But as alleged in the petition in G. R. No. L-47859 which We note apparently concedes hypothetically as valid certain alleged actions of the President which by evidence were later proven to be inaccurately alleged by third-party plaintiff as well as MARSMAN and SAN MAURICIO:

"(c) That under date of April 11, 1977, petitioner (appellant herein) Moya adopted as his own the Answer with Special Defenses filed by petitioners (his co-appellants) SAN MAURICIO and MARSMAN:

"(d) That under date of April 14, 1977, respondent (appellee herein) SMELTERS filed its Reply to the above Answer with Special Defenses and Counterclaim filed by the petitioners, contending that the deeds of sale executed by NASSCO in favor of SAN MAURICIO and MARSMAN, dated November 23, 1973 and June 21, 1975, respectively, were notwithstanding the approval thereof by the President of the Philippines, subject to the reservation that the surface rights object thereof may be withdrawn at any time as public interest may so require, and that by Presidential Decree 837, issued on December 6, 1975 those same surface rights previously sold by NASSCO to SAN MAURICIO and MARSMAN, respectively, were withdrawn from the latter and vested instead upon NASSCO with authority to sell the same to any qualified entity." (Pp. 37-38, Record)

x x x x

"(g) That on August 10, 1977, respondent SMELTERS filed a 'Motion for Summary Judgment Affecting Lot 261-C of Plan marked Exhibit 10 with Supporting Affidavit', the pertinent allegation therein made in support thereof, being as follows, to wit:

'7. That per Exhibit 10 (Plan) it is very clear that defendants had admitted the surface rights of NASSCO in Parcel IV, particularly Lot 261-C (except the alleged properties of Bamba which is situated in Lot 261-F and 261-K), therefore, insofar as Lot 261-C which is a portion of Parcel IV of plan admitted by the defendants and marked as their Exhibit 10 (pre-trial) is without any issue for litigation as between the plaintiff and the defendants and that on the basis, therefore, of the provisions of Rule 34, Sec. 4, that since Lot 261-C does not have any substantial controversy save for the extent of damages which plaintiff has suffered as a result of the litigation therefore, summary judgment may be obtained by the plaintiff hereof; and that judgment may be rendered by the Honorable Court on the portion of the total parcels of land in controversy.

on the basis of which SMELTERS prayed the Court a quo 'that a summary judgment be rendered, particularly on Lot 261-C which is a portion of Parcel IV of Exhibit 10.' A copy of the said Motion for Summary Judgment is attached hereto as Annex III-K and the Plan, Exhibit 10 as Annex III-F-10 hereof;

"(h) That under date of August 24, 1977, the petitioners (appellants) filed their Reply and Opposition to Motion for Summary Judgment above rendered to, contending:

"(1) That the complaint as well as the Answer made no specific reference whatsoever with respect to Lot 261-C, except that it is indicated as covered by Parcel IV in the plan, marked as Annex 10 Exhibit 10 (Annex III-F-10 hereof);

"(2) That the area denominated as Parcel IV in the Plan Annex 10 Exhibit 10, is definitely claimed by them (now petitioners herein) and, as a matter of fact, under their Third Party Complaint against NASSCO, they seek reconveyance to them of the surface rights and all improvements thereon in accordance with their previous agreement with NASSCO; and

"(3) That important issues of fact and law raised in paragraphs XXVIII, XXIX, XXX, XXXI and XXXII of their Answer dated March 30, 1977 (Annex III-B hereof) as restated in paragraph (e), subpars. (1) to (9) above, affect not only Lot 261-C but the entire area involved in the case at bar.

and, stating that 'our Supreme Court has precisely ruled that where the facts pleaded by the parties are disputed, or contested, proceedings for a summary judgment cannot take the place of a trial', citing the case of Singleton v. Philippine Trust Company, 99 Phil. 97. A copy of their Reply and Opposition is attached hereto as Annex III-M.

"(i) That on September 22, 1977, the Honorable respondent Presiding Judge conducted a summary hearing on SMELTERS' Motion for Summary Judgment, (See Order, marked as Annex III-R) and on the same day, September 22, 1977, rendered with lightning speed, PARTIAL JUDGMENT on the case, notwithstanding the aforestated opposition of the petitioners and the fact, firstly, that NASSCO had not even filed as yet its answer to the Third Party Complaint filed by petitioners (Annex III-F-1) and Secondly, that trial of the case proper had not even started. The dispositive portion of the PARTIAL JUDGMENT states as follows:

'WHEREFORE, finding the Plaintiff's Motion for Summary Judgment to be well-taken, accordingly, this Court enters and promulgates a partial judgment on Lot No. 261-C declaring Plaintiff as the lawful owner thereof as against defendants herein and that Register of Deeds of Camarines Norte is hereby directed to cancel adverse claim in so far as Lot No. 261-C is concerned.

'SO ORDERED.'

"A certified true copy of the PARTIAL JUDGMENT rendered by the respondent Honorable Presiding Judge now sought to be declared as null and void, is attached hereto as Annex I hereof;

"(j) That under date of October 20, 1977, respondent SMELTERS filed a Motion for Issuance of a Writ of Execution Pending Appeal, a copy of which is hereto attached as Annex IV-U hereof;

"(k) That under date of October 28, 1977, petitioners filed their Opposition to the said Motion for the Issuance of a Writ of Execution Pending Appeal, a copy of which is hereto attached as Annex IV-V hereof;

"(l) That under date of November 3, 1977, respondent SMELTERS filed its Reply to petitioners' Opposition a copy of which is hereto attached as Annex IV-W;

"(m) That, meanwhile, under date of November 7, 1977, petitioner MOYA, as defendant in the aforestated case, filed in his personal capacity and as a taxpayer of the Republic of the Philippines, his Counterclaim therein, marked as Annex V hereof, assailing as illegal, null and void, if not immoral, the sale made by NASSCO of its entire property object of the said main case, (which, perforce, includes Lot 261-C), valued at approximately P45,000,000.00, for only the measly sum of P85,144.50, of which only the initial payment of P8,414.45 has so far been paid by SMELTERS to NASSCO, as evidenced by their Contract of Sale, Annex III-A-B hereof. The respondent Honorable Presiding Judge having struck off from the record said MOYA'S Counterclaim, the matter is now the object of Certiorari proceedings before the Court of Appeals, docketed therein as CA-G.R. No. SP-97582;

"(n) That on November 8, 1977, an Order was issued by the respondent Honorable Presiding Judge granting respondent SMELTERS' motion for the issuance of a writ of execution pending appeal, a certified true copy of which is hereto attached as Annex II hereof; and, accordingly, on November 15, 1977, such writ of execution pending appeal, was issued. " (Pp. 41-44, Record)

The "summary" or partial judgment referred to, dated September 22, 1971 and the order of immediate execution of November 8, 1977 are precisely the subjects of the petition in G. R. No. L-47859, which We have said We would touch on, if still necessary, after We have resolved the appeal from the final decision now under discussion.

Now, "after the rendition of the Partial Judgment, and termination of the Pre-trial, or on November 7, 1977 to be exact, defendant Moya, as taxpayer, sought the admission of a counterclaim filed on November 28, 1977 the salient features of which read:

"1. That he adopts and begs to incorporate herein by reference each and all of the allegations made by his co-defendants San Mauricio Mining Company and Marsman & Co., Inc., under date of March 10, 1977, and those alleged by them in their Third-Party Complaint against the National Shipyards and Steel Corporation (NASSCO), et al., as Third party defendants, under date of May 17, 1977, duly admitted in the order of this Court on June 29, 1977;

"2. That in addition to those alleged by defendants and third-party plaintiffs San Mauricio Mining Company and Marsman & Co., Inc., defendant respectfully alleges in his capacity as a taxpayer of this Republic:

"(a) That the property in question herein covering an area of approximately 220 hectares, includes not only the improvements thereon worth roughly Forty-Five Million Pesos (P45,000,000) but also the mineral lode claims embraced thereby, worth several million pesos, now presently under the Operating Agreement dated May 2, 1975, by and between Metals Exploration Asia, Inc., and San Mauricio Mining Company and Marsman & Co., Inc., marked as exhibit in this case;

"(b) That the sale dated December 29, 1975, made by NASSCO in favor of the plaintiff Philippine Smelters Corporation, marked as Annex B of the Complaint and covering all the properties referred to in par. (a) above, is illegal, null and void, if not immoral, considering the fact that the NASSCO sold all of the said properties for the sum of only P85,144.50, of which only the sum of P8,514.45 has been paid to date, the balance of P76,630.00 being payable within ten years from January 1976 (see Annex B) when it is a fact alleged by the plaintiff that NASSCO's Corporate existence terminated since January 1976.

"SMELTERS presented a Motion to Strike Out Moya's counterclaim for reasons stated in the Motion dated December 1, 1977. The Court sustained SMELTERS and the defendant went to the Court of Appeals on a petition for certiorari in CA-G.R. No. SP-07502 entitled 'Pedro L. Moya, et al., petitioners versus Honorable Constante A. Ancheta, et al., respondents'. By virtue of a Resolution of the intermediate Court promulgated on January 17, 1978, this Court was restrained from proceeding with the trial of this case scheduled on February 20, and 21, 1978 pending further orders from said Court. After a lapse of almost one (1) year, SMELTERS filed with the Court of Appeals a Manifestation dated August 24, 1978 stating that without waiving any of the defenses that may be available to private respondent (Philippine Smelters Corporation) as plaintiff in the Court below, against the counterclaim of petitioner Pedro L. Moya, it was withdrawing its opposition to the admission of the counterclaim. The Court of Appeals in its Resolution of November 29, 1978 dismissed the petition subject to the admission by the Court below of Moya's counterclaim but allowing SMELTERS to interpose its defenses thereto. The counterclaim was subsequently admitted.

"The case was reset for continuation of the hearing on various dates.

"At the hearings conducted only plaintiff adduced testimonial evidence, that of Assemblyman Pacificador, Mr. Cantiller, Diego Gutierrez - an NBI Agent, and Mr. Jose T. Marcelo, Jr., President of the plaintiff company. Plaintiff likewise availed of the deposition of Assemblyman Zamora, after counsel for the defendants were unable to appear on the date scheduled for the giving of his testimony in Court. The defendants only presented documentary evidence and elected to take depositions of their witnesses which were submitted as evidence.

"After the parties had formally submitted their documentary evidence and awaiting ruling on their admissibility, plaintiff presented on July 13, 1979 a Motion to Admit Amended Complaint, attaching thereto the Amended Complaint itself. The amendment was presented pursuant to Sec. 5, Rule 10 of the Revised Rules of Court to have the allegations in the complaint and pleading conform with the evidence. The amendment consisted in rewording paragraph VIII of the complaint which originally read:

""That, even at that time of the sale, the mineral lands assigned or sold to SAN MAURICIO was not even

alienable as the same was withdrawn from sale per Proclamation No. 500 and that despite the 1st Indorsement of the Executive Secretary, providing that the contract shown in Annex A was approved and therefore, may be given force and effect, the same approval was centered and based on the agreement of the parties thereto that all rights are subject to the provisions of Proclamation 500. The Executive Secretary's approval, dated January 15, 1974, did not in any manner establish any right for San Mauricio except that the basic agreement to the contract may only be given force and effect, visibly in accordance with its tenor and nothing more;"

"As reworded in the Amended Complaint, it states:

"That at the time of the alleged sale, the mineral lands assigned to SAN MAURICIO were not even alienable, as they were withdrawn from sale by Presidential Proclamation No. 500 and in spite of the purported first indorsement of the Assistant Executive Secretary supposedly approving the contract, the alleged approval is subordinated to the provision of Presidential Proclamation No. 500 and all rights of the parties thereto are subject to said Proclamation. The apparent approval of the Assistant Executive Secretary, Rolando B. Zamora (which should be Ronaldo B. Zamora) dated January 15, 1974 has subsequently been found and discovered by Smelters to be a forgery and the Assistant Executive Secretary had not approved said contract for and by authority of the President nor affixed his signature to the first indorsement herein mentioned.

"Defendants opposed the admission of the Amended Complaint, claiming that they have objected to the presentation of any evidence tending to vary the allegations as proof thereof of that which amendment is sought; that if the admission of the amendment be allowed it would greatly prejudice defendants, its defenses altered and may require the presentation of additional evidence.

"The parties cited provisions of the rules and jurisprudence in support of their respective assertions.

"In the Order of July 25, 1979, the Court opted to resolve, whether to admit or not the Amended Complaint when it writes this decision. Before going further, we deem it proper to resolve the issue.

"The Court finds ample authority and provisions of law to admit the Amended Complaint. While it is true that at first there was serious objection to evidence tending to show that the signature of then Secretary now Assemblyman Ronaldo Zamora on the indorsement supposedly approving the sale from NASSCO to MARSMAN (Exh. H) was a forgery, the objection is deemed to have been waived when the defendants adduced evidence tending to show or showing that said signature is genuine (see Exhs. 26-A to 26-J, 27, 28, 30-35, 38--48). Obviously, therefore, the issue of the genuineness of the signature of Assemblyman Zamora on Exhibit H and whether or not the Deed of Sale, etc. of November 23, 1973 between NASSCO and the defendants (Exh. C-2) was approved by the Office of the President has been tried by express or implied consent of the parties, so that the amendment to con-form with the evidence is proper. We share the view sponsored by counsel for the plaintiff in his Motion to Admit Amended Complaint when he said:

"Parenthetically, it is significant that defendants did not even move for the suspension of the trial when this incident took place; on the contrary, defendants proceeded on the hearing and thereafter submitted evidence, as aforesaid, to establish the genuineness of the signature of Mr. Zamora on the disputed first indorsement of June 15, 1974, EXHIBIT H, to show the alleged approval of the President of the said contract, Defendants are now estopped from claiming that they were deprived of substantial opportunity to contradict the plaintiff.

"The claim that defendants' defenses are to be altered and/or additional evidence may be required is to our mind not well taken. The Court cannot surmise what other defense or additional evidence may be adduced by defendants to meet the evidence on the allegation sought to be amended. If at all, it would only be to show that the signature of Mr. Zamora is genuine, an aspect of the case which they have very exhaustively done with the presentation of the exhibits already mentioned above which consists among others of the testimony of the Senior Document Examiner of the PC Crime Laboratory and former NASSCO employee no less than the then Records

Officer" (Exhs. 39 and 46 respectively.) (Pp. 31-34, Record)

Then His Honor proceeded to make its final resolution of the case thus:

"After a careful review of the records, the Court believed that the great preponderance of evidence is in favor of SMELTERS for the following reasons and/or factors:

"1. In the first place, the inscription of the adverse claim at the initiative of defendants, first on the Original Certificate of Title No. 0440 of NASSCO, which later was subsequently carried SMELTERS was Transfer Certificate of Title No. 13060 of SMELTERS was premature and precipitate, to say the least. While the Contract of Sale and Assignment of Rights dated November 23, 1973 (Exh. C-2) executed by NASSCO in favor of SAN MAURICIO was presented as a part of the documents that were the bases of the notice of adverse claim, nevertheless, the approval of the Office of the President of the said contract, was lacking. The relevance and importance of the approval by the Office of the President of said contract cannot be ignored. Not only because the contract by its nature should be approved by the Chief Executive but also because of the express provision of the contract itself stating that the effectivity thereof is conditioned upon the approval of said Office. Section 6 of the contract (Exh. C-2) provides:

'6 Effectivity - Notwithstanding the signing of this contract it shall only be effective upon its approval by the Office of the President.'

No other meaning and/or interpretation of the above quoted provision of the contract can be given or made. For its effectivity, approval by the Office of the President is a condition sine qua non so to speak.

"The failure of defendants to present with other papers the required presidential approval necessary for the effectivity of the contract is of very great significance as will be shown in the discussions to follow:

"2. The signature of the Assistant Executive Secretary, Ronaldo B. Zamora is undoubtedly a forgery. This conclusion was reached after the Court has carefully reviewed the evidence. For ready reference and a better understanding of the matter we quote Assemblyman Ronaldo B. Zamora himself of what he said in his deposition (Exh. V).

'Q Assemblyman Zamora, could you please explain why you say that the signature appearing over the typewritten name Roland B. Zamora in Exhibit H as well as J-7 and now on Exhibit U-1 is not your signature?

'A First, my name is Ronaldo, and I certainly would not sign any document which bears a different name as Rolando B. Zamora. To make sure that there are no possible errors about this, may be I should recall that possibly eight or maybe ten individuals would have a chance to see my name typewritten in the ordinary course of passing upon papers. First, there would be the Records Office which would receive this document. From the records Office, in the Office of the President, it would then go to the legal office, and presumably the typist there, ...No, I'm sorry, Can I yes, it would first go to the Records Office and then it would be assigned to an action attorney who would prepare a draft or who would dictate a draft. This draft would be typed by one of our typists in the Legal Office. And I presume that the typist, having typed my name many number of times, possibly could not have typed the incorrect name, this would then go to the action attorney and he would be the second person to see the wrong name. This action attorney would then submit to his group head, and that individual would be the third person to see my name. It would then go to the Head of the Legal Office and that would be the fourth individual to see my name typewritten wrongly. It would then be transferred to my office, keeping in my mind that my office is physically separate from the Legal Office. It would then go to the Records Office in my personal office and then clerk in charge would be the sixth individual to see the wrong name and then one of my assistants would take a look and he would be the seventh person to see the error. Well, finally, it would go to me and quite naturally I would be very, very particular about signing my signature over a wrong name. Finally, it would go back to my records clerk for release from my office and he again would have a chance to see the wrong name, and so that is the eight individual; and it

would go back to the Records Office in the Legal Office and that would be the ninth person to see the wrong name. Finally, it would be released to the Central Records Office in the Office of the President in Malacañang for release and the persons there would be the tenth individual to see my wrong name. So it is pretty obvious that I would not sign over a wrong name so that the presumption is that I did not or I would not have signed this particular indorsement. The fact is, there are many small nuances that may not be appreciated by the general public in the preparation of papers in my office. For one thing we never returned an indorsement to a particular office or corporation or an agency. As in this case, it says, 'Respectfully returned to the National Shipyard and Steel Corporation (NASSCO) xxx'. We are very particular in returning an indorsement to a particular individual for a very good reason. We think indorsement should be addressed to an individual because that individual would be responsible for actions on that indorsement, we always put the precise location of the office. In this instance, we would have put the General Manager, National Shipyard and Steel Corporation (NASSCO), Manila. We have many good reasons for that. Many government offices have different physical locations in Metro Manila and in the province. If we were to return it not to an individual but just to NASSCO, and NASSCO probably has a number of offices thru-out the Philippines, one could just imagine the confusion as to where this kind of indorsement should be referred. Also, we do not simply say that a contract is approved. We are very particular in stating that something is hereby approved. Because it is not anything else but that particular indorsement is addressed the authority to effect what is to be effected. Nothing else but that particular indorsement. Therefore, the hereby there is not just a surplusage. It is very important. It is what gives authority to a particular official to do an official act. Also we never include redundancies like, and I quote from the 1st indorsement -- 'xxx and therefore may be given force and effect.' This is something we feel should be remove from indorsements because they are mere redundancies. If a contract is approved, it should be given force and effect and any statement that says it gives it force and effect does not add one iota of authority to that particular indorsement. Also, there are a number of signs and countersigns that the office, through years of practice, has laid down. For instance, although again this is only a xerox copy, I do not see any mark of initial, keeping in mind that all indorsements prepared by the Legal Office goes through several lines of authority. Some initials should appear here. Also, there is a number or figure, there are some sort of routing numbers, and these routing numbers are assigned to the offices in the Office of the President. In the case of the Legal Office, the routing number is 1277. If this were prepared in the Legal Office, that number 1277 would appear not only in the duplicates, in the copies, but would appear even on the original. It is not present in this xerox copy being shown to me. If it were prepared in my personal office then it would bear another number, from 1 to 4, and two numbers correspond to the typist and to the action attorney within my office. It is for these reasons that I feel that this is a forgery. I also take note that the particular letterhead that we use in the Legal Office. If I remember right, what we have been using is 'Tanggapan ng Pangulo ng Pilipinas', not 'Office of the President of the Philippines', especially for local communications. The letterhead shown in this exhibit is for ... is the letterhead that we use for outside, meaning outside the Philippine, communications where it may be difficult for them to understand, although of course under this 'Tanggapan of Pangulo of Pilipinas' there is a small translation here, Office of the President of the Philippines. Ordinarily, as I said, for local official communications, we use 'Tanggapan ng Pangulo ng Pilipinas.'

Now, showing to you another document hereto marked as Exhibit C-2, a contract of sale with assignment of rights. Would you please go over this document and tell the Honorable Court if you have come across a similar or the same or an original of the same document sometime in 1974 or 1975;

'A No. I have not.

'Q Would you be able to recall if in fact this contract had passed through you and you had approved it?

'A Yes, I think I could. And in my case, if my memory were faulty, because every individual has lapses of memory, at the Office of the President, we have adopted certain safeguards against lapses of memory. For one thing, if that contract were sent to the Office of the President, then our Records Office would retain one copy. This is the Central Records Office. Likewise, the Legal Office would retain another copy which is why we

have required offices to submit contracts, to submit not just the original contract but also duplicates, triplicates and quadruplicates. Also, this seems to be a disposal of a government property. Then certainly the instructions to be given to me would be given by the President of the Philippines personally. Not that the President would sign approvals, because ordinarily he would not, and it is for the Executive Secretary or the Assistant Executive Secretary who would approve it for his behalf. Nevertheless, it would have to be shown the President personally and the President personally would probably have indicated in the ordinary course of events his approval of the contract itself. And you would see there a short approval. It would indicate Approved then with an initial or the full signature of the President of the Philippines. None of these appears in the contract. I would say that if I would not remember correctly, then these safeguards would help me remember. But in the course of the investigation of the NBI, they also showed me a copy of a certification from our Records Office that there was no such document in our files. Perhaps I should mention that early in my time as Assistant Executive Secretary, I was made Chairman of the Presidential Records Management Committee, let me get the exact words, Presidential Records Management Committee, especially since all of these records are, not all but say 70% or 75% are important legal records of the Office of the President, and they come and go to the Legal Office. And since I was Chairman, we built precisely these safeguards; again, as I said, to foretell lapses of memory. If there is no copy in the Records Office, then I would assume that the original was not sent to the Records Office. It might have been possibly brought directly to the President, an extremely rare case. When this happens, then the Records Office would not have the copy of the contract as it goes directly to Malacañang. This is the instance where the President would call you directly and give you instructions, in which case, there would not be any record going into the Central Records Office. But regardless of whether it is the President himself or it goes through the ordinary course of procedure the outgoing communications must pass through the Records Office. And I understand from the certification from Director Melquiades dela Cruz that neither the outgoing communication was recorded in his Office.' (pp. 33-48)

"Manifestly and unmistakably, even the first name of the Assistant Executive Secretary appearing on the questioned document, where the approval of the Office of the President appears, is wrong.

"We see no reason to doubt the credibility of Mr. Zamora. Mr. Zamora has nothing to gain from disowning his signature if that is (sic) true. But more than that, Mr. Zamora categorically stated that the papers on the sale of the property in question (Exh. C-2) had never been submitted to him and that he had not approved the same.

"As against the testimony of Mr. Zamora, defendants tried to overcome it but miserably failed in their attempt even with the expert opinion of Mr. Francisco Cruz, Jr., Chief of Questioned Document Division of the PC Crime Laboratory (Exh. 39 deposition of Cruz). Mr. Cruz was presented by defendants. But his testimony, far from destroying the statement of Mr. Zamora or even from creating doubt as to the truth of said testimony, confirms and fortifies the same. Suffice it to say that by the testimony of Mr. Cruz, defendants were not able to negate the affirmative assertions of Mr. Zamora in his deposition that the signature which reads 'Rolando B. Zamora' is not his signature and that he had not approved the Deed of Sale with Assignment of Rights supposedly executed by NASSCO in favor of SAN MAURICIO. The same could be said of Exhibit 40, the deposition of Francisco D. Celorico who was the Chief of the Records Section of NASSCO from 1972 to 1975. He could not even say with certainty if he saw the original of the indorsement of Assemblyman Zamora although in his certification (Exhs. 27 & 28) admittedly given when he was no longer connected with NASSCO, he said that xerox copy is a faithful reproduction of the original (PP. 77-78, Exh. 40). We are not ready to give credence to this witness.

"Finally, the documents that were presented for inscription of adverse claim were all xerox copies of their alleged originals. Clearly, it is not good practice, if not dangerous, for the Register of Deeds to accept for registration even as a notice of adverse claim unauthenticated xerox copies of documents the original of which had not been shown to the Register of Deeds. If the original could not be presented for one reason or another, at least certified copies thereof should be available for registration. The stability of property rights will be

seriously impaired if not jeopardized if any party could present for purposes of lis pendens or adverse claim or any third-party claim for this matter were xerox copies of alleged original documents as what had happened in the present case. If the Register of Deeds were only a little more careful or prudent, he should have required the original documents to be presented or certified true copies thereof by the proper office. This case then could have been avoided. The Register of Deeds should take warning that similar incidents should not be repeated in the future.

"3. With the foregoing factual conclusion it follows that defendants SAN MAURICIO and MARSMAN had not acquired a valid and legal title to the property in litigation under the aforesaid Deed of Sale with Assignment of Rights (Exh. C-2).

"4. NASSCO had no authority to sell or assign its rights much less execute the document of June 26, 1975. The Deed of Assignment of Rights executed by NASSCO in favor of defendants SAN MAURICIO and MARSMAN dated June 26, 1975 (Exh. C-7) is inofficious to say the least. This is so because at the time the property subject matter thereof belonged to the public domain by virtue of Proclamation No. 500 which reserved the property for pier, warehouse and smelting plant site purposes for NASSCO under the administration of NASSCO. NASSCO was not then the owner of the property. As administrator of the property, NASSCO was without authority to sell, encumber, convey or otherwise alienate any part of the public domain. MARSMAN and SAN MAURICIO should have known this matter, or they ought to have known it.

"While among the documents presented with the notice of adverse claims is a true copy of the first endorsement of July 1, 1975 purportedly signed by authority of the President by Mr. Roberto B. Reyes, Deputy Executive Secretary, the document is not even authenticated and no evidence was presented to establish the existence of said document. It is worth mentioning that when Mr. Melquiades dela Cruz, Presidential Staff Director of Malacañang, testified no mention whatsoever with reference to the document was made. On the contrary SMELTERS presented a certification issued by the same officer. Mr. dela Cruz, stating that the supposed endorsement of the Deputy Executive Secretary, Mr. Roberto B. Reyes of July 5, 1975 is not on file in the Office of the President (Exh. R). The above circumstance has created serious doubt in the mind of the Court as to the authenticity of said document. It is settled rule that the Party who makes an affirmative allegation in his pleadings has the burden of proof to prove it. It is incumbent upon MARSMAN or SAN MAURICIO to present credible evidence of its existence. In this particular instance they failed to do so.

"Moreover, on the hypothesis that the first endorsement on July 1, 1975 exists and the Assignment of Rights of June 26, 1975 made by NASSCO in favor of MARSMAN was approved by the Office of the President, the approval thereof as it appears on the face of said endorsement is subject to two (2) conditions:

"1. That the government reserved the right to withdraw anytime the use of the surface right from the assignee as public interest may so require as may be determined by the President pursuant to the content of Proclamation No. 500, Series of 1968.

"2. That the assignee shall not obstruct in any way the free movements of personnel and equipment of the Armed Forces of the Philippines and their continuous use of NASSCO facilities thereat as previously authorized by the President.

"The first condition imposed with the approval of the contract of June 26, 1975 (Exh. C-8) is the right of the government to withdraw at anytime the use of the surface rights from the assignee, that was MARSMAN, if the public interest requires it in accordance with the context of Presidential Proclamation No. 500, Series of 1968. Precisely, under said Proclamation the land therein reserved was withdrawn from sale or settlement. If the right to use surface rights under the Assignment of Rights in favor of MARSMAN (Exh. C-8) is to be construed, it should be in harmony with the provisions of said Proclamation No. 500 and with P.D. 837, a later law, issued on December 6, 1975. Under said Presidential Decree, title to and ownership of the land now in

litigation was vested in favor of NASSCO (when originally was only under the administration of NASSCO under Proclamation 500) and the decree further granted NASSCO the authority to sell or dispose of the land as the interest of the government warrants either by bidding or negotiation. Thus, with the issuance of P.D. 837, the right of MARSMAN as assignee to use the surface rights should be deemed terminated with the sale of the land to SMELTERS on December 29, 1975 when SMELTERS acquired full and complete ownership of the property without any lien or encumbrance whatsoever.

"5. MARSMAN and SAN MAURICIO contend that Proclamation 500, and for that matter P.D. 837, should be construed to respect existing private rights claiming that MARSMAN by a series of transactions had acquired existing mining rights under the Philippine Bill of 1902. We consider the evidence presented in support of the claim as not competent because it does not sufficiently show how MARSMAN or SAN MAURICIO acquired said rights. In fact, there is no proof as to who was in possession of the property upon the passage of the Philippine Bill of 1902 and the successional rights thereto from 1902 to the present. But assuming, however, that SAN MAURICIO, as predecessor-in-interest of MARSMAN had some interest in the land prior to 1957, that interest was conveyed or sold by SAN MAURICIO to NASSCO by the Contract of Sale and Assignment of Rights of 1957. While it may be true that in 1973, NASSCO resold the same property or right to SAN MAURICIO and the latter was succeeded thereto by MARSMAN, it is equally true that at the time of the sale on November 23, 1973, NASSCO was merely an administrator of the property under Proclamation No. 500, Series of 1968 and it had no authority to sell or dispose of the land or any interest therein. Defendants cannot disclaim knowledge of the effects of Proclamation No. 500 and/or its provisions. They should know or ought to have known that on November 23, 1973 said Proclamation was still in effect, not having been repealed and/or recalled. The effectivity of Proclamation on said date is an indisputable proof that the Office of the President could not have approved the supposed sale (Exh. C-2) for the simple reason that a Deed of Sale or Assignment of Rights cannot repeal and/or adversely affect a Proclamation.

"6. There seems to be no question that under P.D. 837, NASSCO was the owner of the property, later covered by Original Certificate of Title No. 0440. This is unmistakable, for it is clearly stated therein. The government had transferred ownership of the land therein described, formerly as part of the public domain, in favor of NASSCO, even before a title thereto was issued. There should also be no debate that under the same decree NASSCO was given authority to transfer absolute ownership of said parcel of land or any portion thereof and convey the same to persons or corporations qualified to acquire land under the Constitution.

"The above is what happened in this case. After the Bureau of Land had resurveyed the property, determined each area and boundaries, completed the plan and technical descriptions, the Register of Deeds issued in favor of NASSCO Original Certificate of Title No. 0440 which became the absolute owner of the land. Then NASSCO sold by negotiation the same land in favor of SMELTERS. The acts of NASSCO are exactly what the Presidential Decree authorized to be done.

"7. It is now claimed by defendants that the price of P85,144.50 is immoral, illegal and unconscionable. Obviously, defendants overlooked the environmental circumstances that prompted NASSCO to dispose of the property. As testified to by Assemblyman Arturo F. Pacificador, then Chairman of NASSCO, there is a basic national policy involved in the transaction.

"It is indubitable that the government as a matter of national policy was committed in allowing the private sector to take over the enterprises pioneered by the government when the private sector is capable already and ready to improve a particular government endeavor. It is also clear that the government wanted to discontinue the operation of NASSCO, particularly with reference to the Jose Panganiban Smelting Plant and to facilitate the disposition of the assets of NASSCO, including the plant the government considered it necessary to transfer ownership of said parcel of land to NASSCO so that NASSCO may ultimately transfer absolute ownership of said parcel of land or any portion thereof and convey the same to persons or corporations qualified to acquire land under the Constitution, either through public bidding or negotiation as the interest of the government warrants. To the Court, it is unmistakable that in pursuance of the policy of the national

government established in P. D. 837, the property of NASSCO at Jose Panganiban had to be sold to the private sector who shall take over the enterprises pioneered by the government. It was precisely what had happened with the sale of the smelting plant and the land at Jose Panganiban by NASSCO to SMELTERS.

"In fact, the Deed of Sale itself of December 29, 1975 (Exh. D) recites the fundamental considerations that motivated the transaction. It states:

'WHEREAS, the Government of the Republic of the Philippines considers the establishment, development and operation of an integrated steel industry in the Philippines as of primary importance in the economic development of the country;

'WHEREAS, for the successful implementation of the aforementioned objective, the Government of the Republic of the Philippines deemed it proper and necessary to provide appropriate incentives to adequately motivate the private sector to invest in the integrated steel industry, which investment involves a long-term risk exposure;

'WHEREAS, the Government of the Republic of the Philippines considers the assurance or grant to the capable segments of the sector of a permanent tenure over the land where the integrated steel industry facilitates are or may be established as one of the appropriate and necessary incentives to motivate the private sector in undertaking this investment with a long-term exposures.

'WHEREAS, NASSCO is the sole and absolute owner of a certain parcel of land known as Jose Panganiban Smelting Plant area, at Jose Panganiban, Camarines Norte, its title hereto being vested under Presidential Decree No. 837 dated December 6, 1975;

'WHEREAS, on the 27th day of November 1975, at Makati, Rizal and registered as Doc. No. 877; Page No. 77; Book No. II; and Series of 1975, of the Notarial Register of the aforementioned Notary Public, NASSCO and PHILIPPINE SMELTERS CORPORATION entered into a Contract of Purchase and Sale covering all the equipment and facilities including structures, buildings, shops, quarters, houses and plant located at Jose Panganiban Smelting Plant at Jose Panganiban, Camarines Norte;

'WHEREAS, PHILIPPINE SMELTERS CORPORATION has signified its intention to cooperate in the fulfillment of the desired goals of the government of the Republic of the Philippines by making substantial investments in the integrated steel industry;

'WHEREAS, PHILIPPINE SMELTERS CORPORATION has applied with NASSCO to purchase the Jose Panganiban area where the Smelting Plant is located at Jose Panganiban, Camarines Norte;

'WHEREAS, Section 3 of Presidential Decree No. 837 promulgated on December 6, 1975, authorized NASSCO to transfer ownership of the Jose Panganiban area or any portion thereof and convey the same to persons or corporation qualified to acquire land under the Constitution, either through public bidding or through negotiations as the interest of the Government warrants, any provisions of law, proclamation, ordinance, rules and regulations to the contrary notwithstanding;

'WHEREAS, PHILIPPINE SMELTERS CORPORATION is qualified to acquire land under the Constitution and in pursuance of the policy of the Government of the Republic of the Philippines to encourage and promote the establishment, development, operation of an integrated steel industry in the Philippines, the sale of Jose Panganiban area to PHILIPPINE SMELTERS CORPORATION will redound to the interest of the country and the government;'

"In truth, the reasons that compelled NASSCO to dispose of the property was not so much the financial returns from the sale but more on the basis of the national policy involved as stated in P.D. 837:

'WHEREAS, in pursuance of the national policy of allowing the private sector to take over enterprises pioneered by the government when the private sector is ready and capable to continue and improve a particular government endeavor and in the interest of the National Government, various government performance evaluation and/or study groups have recommended the disposition of all NASSCO properties and units, including the Jose Panganiban Smelting Plant at Jose Panganiban, Camarines Norte.

'WHEREAS, under Proclamation No. 500 dated December 23, 1968, a parcel of land situated in the Municipality of Jose Panganiban, Province of Camarines Norte, island of Luzon, bounded on the W., along lines 1-2-3-4-5-6-7-8-9-10-11-12-13-14-15-16, by Mambulao Bay; on the N., along lines 16-17-18-19-20-21, by Forest Reserve; and on the E and S, along lines 21-22-23-24-25-26-27-1 by project No. 2, Block VI (Alien & Disp.) LC-403, containing an area of approximately 170.2890 hectares, more or less, has been withdrawn from sale and settlement and reserved for pier, warehouse and smelting plant site purposes under the administration of the NASSCO;

'WHEREAS, as mandated under Republic Act 1396, NASSCO constructed, established and operated in said site a pig iron smelting plant with pier and other plant facilities known as the Jose Panganiban Smelting Plant;'

"If we are to delve deeper, the Court may well say that the amount of consideration, in terms of money, is only secondary to the over-riding policy of the national government to provide impetus to the private sector that it may take the lead in the total economic development of the country under competent leadership. It will be to the national interest if the government could be relieved of the burden and shift it to the private sector enabling the government to attend to the greater problems that it confronts in nation building.

"Besides, the Deed of Sale between NASSCO and SMELTERS contains restrictions on the right of SMELTERS on the use of the property.

'Section 3.1 - Use of Property. -

'It is a special consideration and condition of this Contract that the PROPERTY shall, for as long as PHILIPPINE SMELTERS CORPORATION remains the owner thereof, be used primarily for the establishment, operation and maintenance of an integrated steel industry and complementary facilities and other industries, consistent with its declared intention to make substantial investment in the integrated steel industry in pursuance of the policy of the National Government to encourage, promote and accelerate the growth of said industry in this country.'

"NASSCO is also allowed participation in the affairs of SMELTERS in case of default.

"The objection of defendants, therefore, as to the inadequacy of the price is not well taken. Importantly, NASSCO does not plead that the price for which it had sold the properties to SMELTERS is unconscionable or disproportionate with its true value. We hasten to conclude that the question of the price is between NASSCO as seller and SMELTERS as buyer. And in this particular transaction, it belongs to the Executive Department of the government to determine what is the reasonable price of the land NASSCO was selling, taking into account primarily the announced national policy. It is not for defendants to raise this question. The contract having been approved by the President of the Philippines, it becomes a matter of conscience for the Executive Department to evaluate as to the reasonableness of its price. The Court may not just intrude into the prerogatives of the Chief Executive.

"Defendants argue also that under the Contract of 1957 between SAN MAURICIO and NASSCO, SAN MAURICIO was granted preferential right to reacquire the property in case NASSCO had no more need for it. Going over the voluminous records of this case, the Court does not find that defendants had introduced in evidence the aforesaid contract of 1957 to substantiate its claim. However, Assemblyman Arturo F. Pacificador, testifying on this point, claimed that he had advised, Mr. Emilio Vito of MARSMAN of the projected sale of the property before the Contract of December 29, 1975 between NASSCO and SMELTERS

was finalized, MARSMAN did not show any interest to reacquire said property so that NASSCO proceeded with the sale to SMELTERS. It is noteworthy that Mr. Vito, who gave his deposition twice, first in Civil Case No. 3025, which he re-affirmed in the case at bar, did not on any occasion, even attempt to contradict Assemblyman Pacificador. Besides, the Deed of Sale of 1957 does not appear to have been recorded in the Registry of Property of Camarines Norte, at least it was not shown to have been so recorded. It may not, therefore, bind any third party who had subsequently acquired the property in good faith and for value. It is not enough that in the subsequent contracts of 1973 and 1975 between NASSCO and SAN MAURICIO and NASSCO and MARSMAN, respectively, the preferential right of defendants is mentioned, because the Court, not to say a third-party is left guessing as to what is the nature of that right allegedly granted by NASSCO to the defendants. Since the contract is between NASSCO and the defendants and defendants should have a copy of that contract, the Court feels that it must be the defendants who should present that contract to prove its affirmative allegation that it has in fact a preferential right to the property under the contract of 1957. Defendants failed to do so. Under the above circumstances the Court cannot very well consider the right claimed by the defendants.

"Having disposed of the arguments of defendants against the validity of the sale in favor of SMELTERS the next issue would be the claim of SMELTERS for damages. SMELTERS claim that it had contracted the services of at least five (5) foreign technicians, namely: Lloyd Thomas, Leonard Kitchener, Donald Tully, Alec McKensey, and Stanley, who came to the Philippines to assist and give technical advice in the operation, development and enhancement of the smelting plant for which it had spent the amount of P500,000.00 for their travelling expenses and per diems aside from their salaries as testified to by Jose Marcelo, Jr., President of SMELTERS. SMELTERS attributes the non-full development of its smelting plant and its inability to produce the pig iron because of the impediments created by the notice of adverse claim. The Court is not ready to award in full the amount as claimed by Mr. Marcelo because SMELTERS could still avail of their counsel and services even if belatedly. It was shown, however, that SMELTERS had suffered damages for it was not able to proceed immediately with the installation, establishment and operation the smelting plant and production of pig iron. The Court would, therefore, grant in the exercise of its discretion P150,000.00 for said claim.

"SMELTERS claimed further that it suffered damages represented by the difference of the costs of materials and other machineries in 1976 when it should have acquired said items and started operation in comparison with the costs of materials in 1978 and 1979 when it had paid for said machineries. The delay in the commencement of the operation of the smelting plant was the inability of SMELTERS to obtain the necessary fundings, a circumstance it attributes to the defendants. The Court shares the view of plaintiff for it's supported by the evidence. The loan application of SMELTERS could not be granted by the Development Bank of the Philippines (DBP for short) and other financial institutions because of the annotations of adverse claim on its titles on the properties bought from NASSCO. Obviously, the DBP would not grant the loan which SMELTERS tried to obtain on the security of parcels of land burdened with a notice of adverse claim. The same could be said of the other private banking institutions. To be able to finally obtain loan from Development Bank of the Philippines after a protracted delay, SMELTERS was required to post a bond of P7.5 million for which it paid premium in the amount of P46,000.00 which defendants should be made answerable as an item of actual damages.

"Plaintiff has shown by testimony (Marcelo and Cantiller) and by documentary evidence that because of the delay in the operation of the plant occasioned by the acts of the defendants, procurement of necessary equipment and machineries had gone up as can be gleaned from the following:

"A. QUOTATIONS OF PRICES OF EQUIPMENT IN 1976.

"NAME OF SUPPLIER

TYPE OF EQUIPMENT

TOTAL COST (Foreign Currency)

TOTAL COST

(Phil. Peso)

ENGINEERING EQUIPMENT INC.

1) VAHLE, KAMEN INSULATOR

Insulator

DM 6,854.95

P 27,675.15

"2) E.A. ARIZO

Truck Scale

\$ 10,456.00

P 78,420.00

3) ENGINEERING EQUIPMENT

Compressor

(Sullair)

11,500.00

86,250.00

4) F.E. ZUELLIG, INC.

Transformer

7,800.00

58,500.00

5) ASEA Philippines), Inc.

Lightning Arrester

Skr. 5,840.00

10,060.86

(M – 1)

P 260,906.01

"ACTUAL PURCHASE PRICE OF EQUIPMENT AND MACHINERIES IN 1978.

"NAME OF SUPPLIER

TYPE OF EQUIPMENT

TOTAL COST

(Foreign Currency)

TOTAL COST

(Phil. Peso)

1) VAHLE, KAMEN INSULATOR

Insulator

DM 7,577.43

P 30,591.98

2) HOWE RICHARDSON SCALE COMPANY

Truck Scale

\$ 15,464.00

P 115,980.00

3) SULLAIR CORP.

Compressor (Sullair)

\$ 13,225.00

99,187.50

4) CHEOUNG HWA INDUSTRIAL CO. LTD.

Transformer

\$ 8,925.00

66,937.50

5) ASEA Philip- pines), Inc.

Lightning Arrester

Skr. 12,801.05

22,053.01

(M -2)

P 334,749.99

Price Difference ---

P 73,843.98

"Conversion:

DM x .5383 – US \$ x 7.5=P

SKR x –2297 – US \$x 7.5=P

"The table of prices above-quoted shows the differences in the prices of said equipment and machineries in 1976 as against the year 1978. Defendants should be liable for the difference because by their direct act, SMELTERS was unable to obtain the loan in 1976 and was forced to buy the machineries in question at a much higher price in 1978. If SMELTERS was able to buy the equipment and machineries in 1976, it would have not paid higher prices when the purchase of said equipment and machineries was finally made in 1978, then SMELTERS would have been able to start operation in 1976. The gain that SMELTERS would have realized in 1976, 1977 and 1978 was estimated to be P7,168,000.00, which amount is reflected in the Project Study (Exh. L) and testified to by Ernesto Cantiller, General Manager of plain-tiff. Defendants were not able to show that the projected gain for the year 1976 to 1977 are not correct or could not have been realized. Although Atty. Alafriz reserved his right to cross-examine Cantiller on the Project Study, at the scheduled hearing for that purpose, Atty. Laviña, corroborating counsel to Atty. Alafriz, waived the cross-examination. It cannot be disputed that expected gains or profits can be the subject of damages and in this particular case, we find defendants liable for the same. It has been provided that damages shall comprehend not only the value of the loss suffered, but also that of the profits which could have been obtained (Art. 2200, New Civil Code). Profits or gains (Lucro cesante) could have been earned by plaintiff had there been no delay in the operation of the plant which delay, as we had already stated and found, is attributable to defendants' acts in annotating 'adverse Claims' on plaintiff's titles.

"With respect to SMELTERS' claim for attorney's fees, the Court finds that there were several lawyers who represented SMELTERS in this proceedings. There was Atty. Jules A. Mejia who signed and filed the complaint and who handled the case until after the partial judgment was rendered herein. Then there is Atty. Augusto Schneider who was the resident counsel of Daet and Jose Panganiban, Camarines Norte for SMELTERS. And then, there is Atty. Benjamin H. Aquino who substituted for Atty. Mejia. The Court may not also overlook the circumstances that out of this case, several incidents were brought either directly to the Supreme Court or to the Court of Appeals.

"There is some justification in the claim of SMELTERS for attorney's fees. There is no question that the action of SMELTERS was precipitated by the annotation of adverse claim at the instance of the defendants. There is also no serious controversy that said adverse claim was uncalled for; it lacks both legal and factual basis and it forces SMELTERS to litigate. Although in the complaint SMELTERS asked only P50,000.00 for attorney's fees, but the services rendered by the lawyers for the plaintiff who had to come several times to his Court travelling hundreds of kilometers back and forth, and the importance of the questions involved, the Court believes that an award of P150,000.00 for counsel fees in favor of SMELTERS is reasonable. It should be stated in this connection that when the complaint was filed in February 1977 the plaintiff did not have in mind that certain incidents of the case will reach the appellate Courts (SC & CA). When Jose Marcelo, Jr., President of plaintiff, testified on March 30, 1979 he informed the Court that he has to pay his lawyers P150,000.00 each. Plaintiff has therefore proven that it had to disburse more than what was originally stated in the complaint which under existing jurisprudence the Court may award in excess of what is prayed for provided the award is reasonable.

"Defendants' counterclaim against SMELTERS should be, as they are hereby denied, in view of our findings and conclusions heretofore stated.

"Coming to the third-party complaint filed by defendants against NASSCO, the Court believes that said third-party complaint should be dismissed, after the Court has arrived on the conclusion above indicated. Moreover the two contracts between NASSCO and SAN MAURICIO, and NASSCO and MARSMAN does not contain any warranty, so that defendants corporation bought the lands or any right therein at their risk. The absence of a warranty clause in the aforesaid contract is significant. Unlike ordinary contracts of sale and

assignment or rights, the omission of the warranty clause in the aforesaid contracts would only mean that NASSCO could not be held liable for damages if, later on, there would arise some controversy about the transaction on the title of the land sold by NASSCO. The act of NASSCO in selling the property in litigation to SMELTERS is duly authorized by law, that is by P.D. 837 and unquestionably approved by the President of the Philippines. This matter was fully established with the testimony of Assemblyman Pacificador, former Acting Chairman of NASSCO, who in no uncertain words said that the approval of the sale to SMELTERS by the President was done in his presence. Documentary evidence proving the same has also been submitted by the plaintiff (Exhs. E, E-1 & E-2). NASSCO, therefore, could not be held accountable for the sale of said property to SMELTERS.

"Moreover, the corporate life of NASSCO expired on January 6, 1976, and although under Section 77 of the Corporation Law, it has three (3) years to continue as a corporate body for the purpose of prosecuting and defending suits by or against it and of enabling it to gradually settle and close its affairs, to dispose of and convey its property and divide its equital stock. Said three-year period has already expired on January 6, 1979. The Court seriously doubts whether an action against NASSCO could still be maintained after the period provided for in Section 77 of the Corporation Law has lapsed. The Court believes that after the expiration of the three-year period after the charter of NASSCO has expired, the present third-party complaint by defendants against NASSCO should be dismissed.

"WHEREFORE, Judgment is rendered:

"1. Ordering the Register of Deeds of Camarines Norte to cancel the annotation of adverse claim appearing on Transfer Certificates of Titles Nos. 13503, 13504, 13505, 13506, 13507, 13508, 13509, 13510, 13511, 13512, 13513, 13514, 13515, 13516, 13517, 13518, 13519, 13520, and 13521 in the name of Philippine Smelters Corporation inscribed on August 16, 1976 at the initiative of the defendants.

"2. Declaring plaintiff Philippine Smelters Corporation the true and absolute owner of the lands and improvements existing thereon covered by said Transfer Certificates of Titles and entitled to possession thereof and to all surface rights therein.

"3. Directing the defendants, except the Register of Deeds, to pay jointly and severally the plaintiff Philippine Smelters Corporation the amount of P7,587,843.98 itemized as follows:

"A) Expenses per diems and

fees of five (5) foreign

technicians. - 150,000.00

"B) Premium paid by SMEL--

TERS on the bond to

secure the loan of P7.5

million from DBP. - 46,000.00

"C) Difference in acquisition

of equipment and machine-

ries in 1976 as compared

with actual acquisition price

in 1978 and 1979. - 73,843.98

"D) Unearned profits for 1977

and 1978. - 7,168,000.00

"E) Attorney's fees & expenses

of litigation. - 150,000.00

TOTAL - P7,587,843.98

"4. Declaring the Sheriff's Certificate of Final Sale null and void, the property sold at that time being part of the public domain.

"5. Dismissing defendants' counterclaim and the Third-Party Complaint of Marsman and San Mauricio Mining Company against the third-party defendant both for lack of merits.

"6. Plaintiff shall recover cost of suit against defendants except defendant Register of Deeds.

"SO ORDERED." (Pp. 735-751, Record.)

SAN MAURICIO and MARSMAN, joined by Moya, vigorously assail the foregoing judgment in their eleven assignments of error, to wit:

"I

"THE TRIAL COURT ERRED IN NOT HOLDING AND DECLARING THE DEED OF SALE EXECUTED BY NASSCO, IN FAVOR OF SMELTERS, DATED DECEMBER 29, 1975, COVERING APPROXIMATELY 220 HECTARES OF LAND IN J. PANGANIBAN, CAMARINES NORTE, (EXHIBIT 11), AS NULL AND VOID, AB INITIO, BECAUSE:

'(a) SAN MAURICIO and MARSMAN have vested legal right over the entire area by virtue of their ownership of all the patentable mining claims covered thereby which have been located, explored and exploited under and by virtue of the Act of Congress of July 1, 1902, their rights thereto having been duly recognized by the Philippine Government, through the Bureau of Mines, pursuant to the provisions of Section 101 of Presidential Decree No. 463;

'(b) NASSCO had no right or title whatsoever to the fifty (50) hectares included in the area sold by it to SMELTERS, the same being foreshore land which belongs to the national patrimony and which, by law, is outside the commerce of man and not even subject to sale by the State (Public Land Act, CA-No. 141, Secs. 59 and 61); and, as a matter of fact, as borne out by the context of the Deed of Sale itself and the type used (Exhibit 11, page 4, photocopy of pertinent portion reproduced, see back sheet), the same appears to have been illegally intercalated as in addition to, the 170.2890 hectares vested upon and authorized to be sold by, NASSCO to competent persons, under P.D. No. 837;

'(c) NASSCO having, by a Contract of Sale and Assignment of Rights dated November 23, 1973, Exhibit 2, PREVIOUSLY sold and assigned to SAN MAURICIO, for the sum of P200,000.00, 93.518 hectares, including all improvements thereon, out of the area in question, it may not sell, as it did sell, for the second time, the same property, to SMELTERS, in flagrant violation of law and the constitutional provision on inviolability of contracts;

'(d) NASSCO having, by a Deed of Assignment and Quitclaim dated June 26, 1975 (Exhibit 4), likewise PREVIOUSLY sold and assigned to Marsman, for the sum of P32,595.50, 32.575 hectares, including all improvements thereon, out of the area in question, it may not sell, as it did sell, for the second time, the same property, to SMELTERS, in clear violation of law and the constitutional provision on inviolability of contracts;

'(e) Approximately 13,7497 hectares of the area sold by NASSCO to SMELTERS was, at the time of the sale, and up to this date, of the private ownership of Marsman, previously acquired by it from Amparo P. de los Santos, for the sum of P45,000.00, under a Deed of Sale, dated June 23, 1975 (Exhibit 5), incident to a compromise agreement in Civil Case No. 1613 of the Court of First Instance of Camarines Norte, wherein NASSCO was one of the parties defendants;

'(f) Approximately 22 hectares of the area sold by NASSCO to SMELTERS was, at the time of the sale, and up to this date, of the private ownership of SAN MAURICIO and MARSMAN, previously acquired by them from the heirs of Gregorio Bamba, Sr., for the sum of P40,000.00, under a Deed of Sale dated July 4, 1975 (Exhibit 6), incident to a compromise settlement in Civil Case No. 1452 of the Court of First Instance of Camarines Norte, wherein NASSCO was likewise one of the parties defendants;

'(g) Even assuming that NASSCO, a government owned corporation, had been vested with legal title to the property in dispute, the sale made by it in favor of SMELTERS, a privately owned corporation, is in any case null and void, as clearly violative of public interest and wanting in valid consideration therefor, considering that the Government had invested approximately Fifty Million Pesos (P50,000,000.00) as appropriated by it under Republic Act No. 1306, for the pig iron smelting plant therein established, with NASSCO subsequently selling the same to SMELTERS for the immoral and measly sum of P8,514.45 down, and the stipulated balance of P76,630.00 in easy installments payable up to July 1986 (See Deed of Sale, Exhibit 11);'

"II

"THE TRIAL COURT ERRED IN NOT DECLARING AND HOLDING THAT PRESIDENTIAL DECREE NO. 837 UNDER WHICH NASSCO CLAIMED TITLE TO THE 170.2890 HECTARES OF LAND SOLD BY IT TO SMELTERS, IS NULL AND VOID, AS VIOLATIVE OF THE RIGHTS, TITLE AND INTERESTS OF SAN MAURICIO AND MARSMAN IN AND TO THE PROPERTY IN DISPUTE, CONSTITUTING, AS IT DOES, UNDUE DIVESTMENT OF EXISTING VESTED LEGAL RIGHTS, WITHOUT DUE PROCESS OF LAW.

"III

"THE TRIAL COURT ERRED IN HOLDING AND DECLARING THAT BOTH PROCLAMATION NO. 500, DATED DECEMBER 23, 1968, AND PRESIDENTIAL DECREE NO. 837, DATED DECEMBER 6, 1975, HAVE ABROGATED BOTH SAN MAURICIO'S AND MARSMAN'S EXISTING PRIVATE RIGHTS WHICH THEY HAVE ACQUIRED UNDER AND BY VIRTUE OF THE PROVISIONS OF THE ACT OF CONGRESS OF JULY 1, 1902.

"IV

"THE TRIAL COURT ERRED IN NOT VOIDING AND NULLIFYING TRANSFER CERTIFICATES OF TITLE NOS. 13060, 13502 UP TO 13521 REGISTERED IN THE NAME OF SMELTERS AND IN HOLDING THAT SMELTERS IS THE ABSOLUTE OWNER OF THE LANDS AND IMPROVEMENTS THEREON AND TO ALL SURFACE RIGHTS THEREIN.

"V

"THE TRIAL COURT ERRED IN HOLDING AND DECLARING THAT THE CONTRACT OF SALE AND ASSIGNMENT OF RIGHTS, DATED NOVEMBER 23, 1973, EXECUTED BY NASSCO IN FAVOR OF SAN MAURICIO (EXHIBIT 2) LACKS APPROVAL OF THE OFFICE OF THE PRESIDENT IN THAT THE SIGNATURE OF ASST. EXECUTIVE SECRETARY ZAMORA APPROVING THE SAME (EXH. H),

IS FORGERY, AND THAT THE DEED OF ASSIGNMENT OF RIGHTS, DATED JUNE 26, 1975, LIKEWISE EXECUTED BY NASSCO IN FAVOR OF MARSMAN (EXHIBIT 4) IS INOFFICIOUS; AND AS SUCH, BOTH SAN MAURICIO AND MARSMAN DID NOT ACQUIRE VALID TITLE TO THE PROPERTIES COVERED THEREBY.

"VI

"THE TRIAL COURT ERRED IN HOLDING AND DECLARING THAT THE SHERIFF'S CERTIFICATE OF FINAL DEED (EXH. 3) IS NULL AND VOID ON THE GROUND THAT THE PROPERTY SOLD AND COVERED THEREBY IS PART OF THE PUBLIC DOMAIN.

"VII

"THE TRIAL COURT ERRED IN DISMISSING THE THIRD PARTY COMPLAINT FILED BY SAN MAURICIO AND MARSMAN AGAINST NASSCO AND IN DECLARING THAT SUIT AGAINST NASSCO MAY NO LONGER BE MAINTAINED AFTER THREE YEARS FROM THE DATE OF TERMINATION OF ITS CORPORATE EXISTENCE ON JANUARY 6, 1976.

"VIII

"THE TRIAL COURT ERRED IN NOT HOLDING AND DECLARING THAT SAN MAURICIO AND MARSMAN HAVE THE RIGHT TO REPURCHASE FROM NASSCO THE REMAINING AREA (CONSISTING OF 18 HECTARES TOGETHER WITH ALL ITS IMPROVEMENTS SHOWN IN THE PLAN, EXHIBIT 10, AS LOT 261-C) NOW IN THE POSSESSION OF SMELTERS, WHICH NASSCO PREVIOUSLY ACQUIRED FROM SAN MAURICIO SUBJECT TO SUCH RIGHT OF REPURCHASE DULY AND EXPRESSLY ACKNOWLEDGED BY NASSCO IN THE DEEDS OF SALE AND ASSIGNMENT, EXHIBITS 2 AND 4;

"IX

"THE TRIAL COURT ERRED IN DECLARING BY WAY OF OBITER DICTUM THAT SAN MAURICIO CONVEYED TO NASSCO SOME 20 MINERAL CLAIMS WITHIN THE AREA IN DISPUTE.

"X

"THE TRIAL COURT ERRED IN CONDEMNING MARSMAN AND SAN MAURICIO, JOINTLY AND SEVERALLY, TO PAY SMELTERS THE AGGREGATE SUM OF P7,587,843.98 BY WAY OF DAMAGES IN THE FORM OF ALLEGED UNEARNED PROFITS, EXPENSES AND ATTORNEY'S FEES, INCIDENT TO, AND AS A RESULT OF, THE ANNOTATION BY SAN MAURICIO AND MARSMAN OF THEIR ADVERSE CLAIM ON THE PROPERTIES COVERED BY NASSCO'S CERTIFICATE OF TITLE AND THOSE OF SMELTERS WHICH WERE DERIVED THEREFROM.

"XI

"THE TRIAL COURT ERRED IN NOT DISMISSING THE COMPLAINT FILED BY SMELTERS AGAINST SAN MAURICIO, MARSMAN AND MOYA." (Pp. 35-42, Brief of Defendants-Appellants.)

And so, according to appellants, the following are the "salient" issues in the cases at bar:

"1. Whether or not the vested legal rights of SAN MAURICIO and MARSMAN in and to their mining claims, surface rights and existing improvements, within the area in dispute, which were located and acquired by them and their predecessors in interest under the provisions of the Act of Congress of July 1, 1902, and other laws, continue to be valid, effective and subsisting, notwithstanding the issuance of Presidential Decree No. 837,

vesting title unto NASSCO of 170.2890 hectares of land within the said mineral claims.

"2. Whether or not the reconveyances made by NASSCO firstly, to SAN MAURICIO under the Contract of Sale and Assignment of Rights, dated November 23, 1973, covering 93.518 hectares of surface rights, for and in consideration of the sum of P200,000.00 (Exhibit 2, R.A. 52-68), and, secondly, to MARSMAN under the Deed of Assignment and Quitclaim, dated June 26, 1975, covering 32.575 hectares of surface rights, for and in consideration of the sum of P32,595.50 (Exhibit 4, R.A. 77-88), are valid and effective;

"3. Whether or not NASSCO after having sold and reconveyed to SAN MAURICIO and MARSMAN, respectively, for the aggregate sum of P232,595.50, the totality of 125.093 hectares of surface rights above referred to, may sell for the second time, to SMELTERS, the identical properties (Exh. 11, R.A. 102-118) without infringing upon the law and the constitutional provision on inviolability of contracts;

"4. Whether or not the Deed of Sale executed by NASSCO in favor of SMELTERS, dated December 29, 1975, conveying government property worth millions of pesos, (Exhibit 11, R.A. 102-118) is valid and effective, notwithstanding the fact that it is clearly violative of public interest and absolutely wanting of valid consideration, apart from the fact that it has not been duly approved by the President of the Philippines;

"5. Whether or not, in view of the foregoing, SAN MAURICIO and MARSMAN had the legal right to have annotated their adverse claim on the properties covered by the title issued to NASSCO under Presidential Decree No. 837, and those derived therefrom issued thereafter to SMELTERS;

"6. Whether or not the Sheriff's Certificate of Final Deed dated November 4, 1975, in favor of MARSMAN (Exh. 3, R.A. 88-102) in consequence of the mortgage foreclosure of the mining claims, mining rights, improvements and other properties of SAN MAURICIO therein described, for and in consideration of the sum of P3,961,973.75, is valid and effective;

"7. Whether or not SMELTERS is entitled to an award for damages in the aggregate sum of P7,587,843.98 (Decision, R.A. 1042-1116) by reason of the said annotation of adverse claim made by SAN MAURICIO and MARSMAN." (Pp. 33-35, id.)

We have carefully read the very lucid discussion of these assignments of error, and it must be admitted that appellants have made a creditable and forceful presentation of their cause. Taken alone, one could readily be convinced by appellants' brief that indeed the trial court erred as pointed out by them.

But it is most important to note that beyond the issues so well presented and discoursed by appellants lies the sole point of fact that is to Our mind decisive in these cases. All the vehement and ingenious arguments and counter-arguments regarding the validity of the documents of sale or resale of November 23, 1973 by NASSCO to SAN MAURICIO, of June 26, 1975 also by NASSCO in favor of MARSMAN and other documents related may be deemed as merely peripheral and tangential, if not immaterial, as long as it is not determined definitely what was conveyed by SAN MAURICIO to NASSCO on November 19, 1957. If what was transferred then included the mining claims and mineral rights of SAN MAURICIO, We would have no alternative than to make Our decision on that basis, pursuing to their logical conclusion the legal effects of Proclamation 500 of December 23, 1968 and Presidential Decree 837 of December 6, 1975 upon whatever transactions might have transpired among the parties hereto.

We say that the question of what was sold by SAN MAURICIO to NASSCO on November 19, 1957 is the pivotal point to be determined here because it cannot be denied that from the constitutional point of view and in the light of the vested rights principle, if the mineral rights and mining claims of SAN MAURICIO were perfected before that date, and it sold to NASSCO only the "surface rights" in their 170 hectares of land, then neither Proclamation 500 nor Presidential Decree 837 could deprive it of those mineral rights and mining claims.

In connection with this vital issue, SMELTER's brief posits that the very document of transfer itself, copy of which is annexed to it as Appendix "A" is the indubitable proof that what were conveyed were not only the surface rights but the mining claims themselves. Thus, the pertinent portion of the said document states clearly and unequivocally:

"That for and in consideration of the amount of TWO HUNDRED THOUSAND PESOS (P200,000.00), Philippine Currency, to be paid by the NATIONAL SHIPYARDS AND STEEL CORPORATION, a corporation organized and existing under and by virtue of the laws of the Philippines, with office at Engineer Island, Port Area, Manila, the SAN MAURICIO MINING COMPANY, convey unto the NATIONAL SHIPYARDS AND STEEL CORPORATION, any and all of its rights, participations, equities and interests in and to those twenty (20) mining claims located on the parcels of land itemized and described in Annex 'A' of this instrument, as well as to all those, improvements erected and existing thereon more specifically itemized and described in Annex 'B' hereof." (Underlining ours) (Pp. 78-79, Brief for Plaintiff-Appellee.)

We cannot close Our eyes to the unambiguous tenor of this quoted paragraph. Indeed, We have no basis to discuss "surface rights" at all, for those words do not even appear in the document. Two other paragraphs thereof make explicit reference also to mining claims, not "surface rights", We quote:

"It is further a condition of this instrument that upon the payment to the REHABILITATION FINANCE CORPORATION of the amount of TWO HUNDRED THOUSAND PESOS (P200,000.00), the REHABILITATION FINANCE CORPORATION will release the mining claims located on those parcels of land described in Annex 'A' as well as the improvements erected and existing thereon itemized and described in Annex 'B' hereof, from the mortgage liability.

"The SAN MAURICIO MINING COMPANY shall forthwith, after such payment by the NATIONAL SHIPYARDS AND STEEL CORPORATION and release by the REHABILITATION FINANCE CORPORATION, waive unto and in favor of the NATIONAL SHIPYARDS AND STEEL CORPORATION any and all of its rights, title and interests in and to those Twenty (20) mining claims located on the parcels of land described in Annex 'A' as well as those buildings and improvements recited in Annex 'B' hereof. (Underlining ours) (Idem)

Not without some degree of strictly technical plausibility, appellants contend that SMELTERS' production of the above-quoted instrument of transfer of November 19, 1957 is out of place in this Court, the same not having been introduced or presented as evidence at the trial.

To begin with, with rare commendable candidness in advocacy, and induced evidently by the undeniable accuracy of Appendix "A",⁽²⁾ instead of standing pat on their technical procedural objection, appellants would want Us to devalue said document by maintaining that "contemporaneous and subsequent acts of the vendor (SAN MAURICIO) and the vendee (NASSCO) in relation therewith, covering a period of over 16 years, clearly show that they treated the instrument of sale to the exclusion of the 20 mining claims, since NASSCO under its charter was not authorized to engage in mining." (p. 5, Appellant's Reply Brief) And the case of Nielson & Co., Inc. vs. Lepanto Consolidated Mining Co., 18 SCRA 1050-1051 and the earlier one of Canuto vs. Mariano, 37 Phil. 840 are cited to support the proposition that in the construction of contracts the intention of the parties may be proven by subsequent acts.

The Court does not see how the cases cited can be controlling in the cases at bar. The primary and elementary rule of construction of documents is that when the words or language thereof is clear and plain or readily understandable by any ordinary reader thereof, there is absolutely no room for interpretation or construction anymore. What the case of Nielson had in contemplation was a contract the language of which evinced doubt as to the intention of the parties, hence the ruling that once the intention is determined it becomes part of it as if

"originally expressed therein in unequivocal terms." As far as the Mariano case is concerned, it referred to agreements subsequent to the questioned contract and the issue was whether or not parol evidence could be admitted to prove the later agreement, and, naturally, this Court rightly held that such subsequent agreement was not covered by the parol evidence rule, since the said rule covers only prior and contemporaneous agreements which are deemed to be integrated into the written contract.

More importantly, however, appellants' attempt to demonstrate the so-called "contemporaneous and subsequent acts of vendor and vendee" is successfully rebutted in appellees' rejoinder brief. Two points (1) that SAN MAURICIO filed affidavits of assessments from after 1957 is pointedly belied by Annex "A" of the said rejoinder brief, a certificate of Leopoldo L. de Jesus, Register of Deeds & Mining Recorder of the Bureau of Mines at Daet, Camarines Norte that is true that SAN MAURICIO owned 120 claims at Luklukan, Jose Panganiban, Camarines Norte, but that during the year 1958, the San Mauricio Mining Company appears to have filed affidavits for only one hundred (100) claims, not including the following twenty (20) claims listed:

"1. Pat Fr.

11. Washington No. 1

2. Atlantic Fr.

12. Washington

3. Mambulao Fr.

13. Brooklyn

4. Jonny No. 2

14. Seattle No. 1 Fr.

5. Pacific No. 3

15. California

6. Seattle No. 6

16. Honey Fr.

7. Pittsburg

17. Seattle No. 2

8. Pacific

18. Seattle Fr.

9. Seattle No. 4

19. Tacoma

10. Tacoma No. 4

20. Jonny Fr. 2" (Page 27,

(Rejoinder to Appellants' Brief.)

which appear to be the very claims subject of the conveyances and reconveyances of November 19, 1957 and November 23, 1973. No rejoinder brief or any subsequent pleading having been filed by appellants, We take it

that such official certification can be considered as correct, if only because of the presumption of regularity that is stamped on it as an official document, even if its original is not with Us, although We believe it can be presented anytime.

(2) As to the authority of NASSCO to engage in mining, suffice it to point out that under Executive Order No. 399, the Uniform Charter for Government Corporations, Section 3 thereof provides:

"SEC. 3. Purposes and Specific Powers. ? The purposes and specific powers of existing corporations that are subject to this Charter are those enumerated in Annex A hereof."

and under No. 10 of the Annex A therein referred to, it is provided thus:

"10. National Shipyards and Steel Corporation (NASSCO)

"Authorized capital?

"Purposes:

"(a) To engage in the building and/or repair of ships, vessels, launches, tugs, barges, dredges, ferries, scows, lighters and other floating or marine craft and equipment;

"(b) To purchase and/or otherwise acquire, own, control, operate, maintain, build and/or repair slipways, floating and dry docks;

"(c) To undertake the fabrication, manufacture and/or repair of light and heavy machinery, equipment, structures, implements, tools, hardware and other articles;

"(d) To acquire, construct and operate iron and steel mills, ferrous and non-ferrous foundries, furnaces, smelters and other mills and plants for light and heavy industries;

"(e) To acquire the right-of-way to locate, construct and maintain works and/or appurtenances over and throughout the lands and waters owned by the Republic of the Philippines, or any of its branches or political subdivisions; and to exercise the right of eminent domain for the purposes of this Order in the manner provided by law for instituting condemnation proceedings."

under which it may be implied that the purchase in question was along the line of NASSCO's ultimate functions. In any event, the lack of authority or right to operate is not necessarily exclusive of the right to own. It is not difficult to conceive the inconvenience and complications that can result from the ownership of surface rights separately from that of the mineral claims underneath in the situation of NASSCO under the provisions aforequoted. Moreover, if NASSCO needed only the surface rights and SAN MAURICIO really wanted to retain its mining claims, with each of the parties having at their beck and call, what with their respective resources, lawyers of nationally well recognized talent and ability, why did they execute a document that anyone can only read otherwise?

Under these circumstances, We are convinced that, all technical ratiocinations notwithstanding, the incontrovertible fact that appears clear and indisputable is that by the Deed of Transfer of November 19, 1957, NASSCO acquired from SAN MAURICIO not only surface rights over the latter's land in question but actually its mining claims and mineral rights explicitly specified in said document. We hold, consequently, that neither Proclamation 500 nor Presidential Decree 837 deprived either SAN MAURICIO or MARSMAN of any vested rights in the lands here in dispute.

Having arrived at this conclusion, it should be readily understandable, as it would be inevitable, how the rest of the remaining issues in this controversy have to be resolved.

The main prop of appellants' posture is obviously the resale or retransfer document from NASSCO to SAN MAURICIO of November 23, 1973, particularly because, for reasons not satisfactorily shown even by appellants themselves, it refers to the "Deed of Absolute Sale" of November 19, 1957 as one "of the surface rights over 144.62 hectares of land covering twenty mining claims of SAN MAURICIO - - to be the site of the Jose Panganiban Smelting Plant of NASSCO." Perhaps, if all that We had to consider were the face of the document thus relied upon by appellants, We could probably recognize the validity of their defenses and counterclaims herein.

But looking deeper into the relevant circumstances, We cannot but realize certain insurmountable obstacles that to Our mind completely bar the prayers of appellants. We have already remarked that even the luminous and comprehensive pleadings and briefs of appellants do not give Us a glimpse of the inscrutable factors that led to the preparation and signing or execution of the resale document in question in its extant tenor. If fault therefor could be attributed to a failure of the public officials who took part therein, We can only say that as a matter of law rooted in the protection of public interest, and also as a general policy to protect the government and the people against misbehavior or mischief of its personnel, their errors in the performance of their duties should never deprive the people of the right to rectify such error and recover what might be lost or be bartered away in any actuation, deal or transaction concerned. It must be borne in mind vis-a-vis the instant cases at bar that NASSCO together with other government owned or controlled corporations was placed under the Uniform Charter of Government Corporations thus partaking of the nature of a regular government or official public entity. Correspondingly, therefore, the mistakes of its officials could not legally bind the state, without prejudice in appropriate cases where connivance or corruption is absent, to the other party being duly reimbursed any payment it has made.

We have carefully read the documents, alluded to by appellants, beginning with the resale deed of November 23, 1973 thru the deed of assignment in favor of MARSMAN dated June 26, 1975, and, of course, all the other papers which are subsidiary thereto, complimentary thereof or have evidently flowed therefrom, and truth to tell, they do refer to "surface rights". But We cannot go against the hard fact We have found indubitably demonstrated by appellees that the original transaction of November 19, 1957 definitely referred to mining claims. No plausible explanation has been shown of the apparent discrepancy, and the only inference We can make out of it is that the public officials who took part in the preparation thereof were either unaware of the exact import of the documents or the situation they were dealing with, or, were induced by factors which cannot be revealed. In any event, the public interest involved in the matter cannot be made to suffer, as We have already explained, by their strange or unusual actuations.

What compounds the unexplained and inexplicable tenor of the deeds and documents relied upon by appellants is that after the issuance by His Excellency, President Ferdinand E. Marcos of Proclamation No. 500 on December 23, 1968, that is, while the deed of transfer of November 19, 1957 was still the basis of the government's ownership of the land in question, including the mineral or mining claims in question, the said property was withdrawn "from sale or settlement" and placed "under the administration (only and no more) of the National Shipyards and Steel Corporation." Upon these premises, it is indubitable that NASSCO had no legal authority whatsoever to dispose of what was placed under its administration only, and any official of NASSCO who acted in excess of the powers defined by the proclamation performed nothing more, nothing less than ultra vires acts entirely devoid of any effect or force in law.

With what We have just discussed and held it would hardly be necessary for Us to delve deep into the factual issue of whether or not the Deed of Transfer dated November 23, 1973, Exhibit C-2, was approved by the Office of the President. The lengthy and well rationalized discourse of the trial court leading to the conclusion that the

signature of former Assistant Executive Secretary, now Assemblyman, Hon. Ronaldo Zamora had been forged, a conclusion based mainly on the testimony of Assemblyman Zamora himself, not only denying the authenticity of the signature over the name reading Rolando Zamora (instead of Ronaldo, his real name) but explaining the badges therein showing lack of regularity thereof thus revealing its falseness, satisfies Us, and We do not hesitate to give Our assent thereto. Specially having in view the lack of legal authority of the NASSCO officials concerned to act on the matter in the light of Proclamation 500, We also find and hold that the supposed transaction with MARSMAN of June 26, 1975 has not been sufficiently shown to have been approved by then Assistant Executive Secretary Roberto Reyes. Indeed, how could those alleged transactions have been approved when they appeared on their faces to be violative of Proclamation 500 which had not been neither repealed nor even amended in any manner which would make disposal by NASSCO of the property in question permissible? Why would NASSCO retransfer or reconvey surface rights when it acquired million claims?

Withal, looking at this particular point in dispute from another angle, the unavoidable conclusion would still favor appellee SMELTERS, for assuming that NASSCO did retransfer to appellants the "surface rights" referred to in the pertinent deeds, not only would the result be that the mining claims were intentionally excluded from the retransfer but also that NASSCO reserved the right to withdraw "anytime the use of the surface rights from (Marsman, in particular) as public interest may so require as may be determined by the President pursuant to the context of Proclamation No. 500, series of 1968". (See p. 126, Record)(3)

And what totally and definitely consolidated in NASSCO full ownership of the properties herein involved-mining claims, surface rights and improvements and all-and made its authority to dispose of and transfer the same to appellees all the more unquestionable and, therefore, the sale impugned here indisputably valid and legal was the legislative recognition, even if, in the juridical sense, this was practically superfluous, of NASSCO's ownership of said properties with the right, power and authority to sell and dispose of the same, by Presidential Decree 837 of December 6, 1975. It provides:

"PRESIDENTIAL DECREE NO. 837

"AN ACT TRANSFERRING OWNERSHIP OF A CERTAIN PARCEL OF LAND OF THE PUBLIC DOMAIN SITUATED IN THE MUNICIPALITY OF JOSE PANGANIBAN, PROVINCE OF CAMARINES NORTE, ISLAND OF LUZON TO THE NATIONAL SHIPYARDS AND STEEL CORPORATION (NASSCO) AND AUTHORIZING THE DISPOSITION THEREOF."

"WHEREAS, in pursuance of the national policy of allowing the private sector to take over enterprises pioneered by the government when the private sector is ready and capable to continue and improve a particular government endeavor and in the interest of the National government, various government performance evaluation and/or study groups have recommended the disposition of all NASSCO properties and units, including the Jose Panganiban Smelting Plant at Jose Panganiban, Camarines Norte.

"WHEREAS, under Proclamation No. 500 dated December 23, 1968, a parcel of land situated in the Municipality of Jose Panganiban, Province of Camarines Norte, Island of Luzon Bounded on the W., along lines 1-2-3-4-5-6-7-8-9-10-11-12-13-14-15-16, by Mambulao Bay; on the N., along lines 16-17-18-19-20-21, by Forest Reserve; and on the E and S, along lines 21-22-23-24-25-26-27-1 by project No. 2, Block VI (Alien & Disp.) LC-403, containing an area of approximately 170.2890 hectares more or less, has been withdrawn from sale and settlement and reserved for pier, warehouse and smelting plant site purposes under the administration of the NASSCO;

"WHEREAS, as mandated under Republic Act 1396, NASSCO constructed, established and operated in said site a big iron smelting plant with pier and other plant facilities known as the Jose Panganiban Smelting Plant;

"WHEREAS, in order to facilitate the disposition of all assets of NASSCO including the Jose Panganiban

Smelting Plant, there is a need to transfer ownership of said parcel of land to the NASSCO;

"NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution of the Philippines, hereby decree as follows:

"SECTION 1. The title to and ownership of that certain parcel of land, situated in the Municipality of Jose Panganiban, Province of Camarines Norte, Island of Luzon, bounded on the W., along lines 1-2-3-4-5-6-7-8-9-10-11-12-13-14-15-16, by Mambulao Bay; on the N., along lines 16-17-18-19-20-21, by Forest Reserve; and on the E and S, along lines 21-22-23-24-25-26-27-1; by project No. 2, Block VI (Alien & Disp.) LC-403, containing an area of approximately 170.2890 hectares, is hereby transferred to and vested in the NASSCO.

"SEC. 2. The said parcel of land herein conveyed shall be resurveyed by the Bureau of Lands within fifteen (15) days from the promulgation of this Decree to ascertain its actual location and boundaries. Thereafter, the proper Register of Deeds shall register the same and issue the corresponding certificate of title to the NASSCO.

"SEC. 3. Any provision of law, proclamation ordinance, rules and regulations to the contrary notwithstanding, the NASSCO may transfer absolute ownership of said parcel of land or any portion thereof and convey the same to persons or corporations qualified to acquire land under the Constitution, either through public bidding or through negotiations, as the interest of the government warrants.

"SEC. 4. All laws, executive orders, proclamation, rules and regulations or part thereof inconsistent with this Decree are hereby repealed and/or modified accordingly.

"SEC. 5. This Decree shall take effect immediately. Done in the City of Manila this 6th day of December, in the year of Our Lord, nineteen hundred and seventy-five."

Corning now to the two supposedly private lands of Amparo de los Santos and the Bambas, comprising thirteen (13) and twenty-two (22) hectares, respectively, We note that although NASSCO was a party to the two compromised civil cases involving the same, as defendant, together with SAN MAURICIO and MARSMAN, NASSCO does not appear to be a party to "Deed of Assignment and Quitclaim Rights to Real Property" dated June 23, 1975, Annex 5 of SAN MAURICIO's and MARSMAN's third party-complaint nor to the Deed of Sale by the Bambas of July 4, 1975, Annex 6, *id.* More, it is expressly stipulated in Annex 5, just referred to, that "(T)his sale or assignment and quitclaim made in favor of the Second Party (Marsman) is deemed subject to whatever rights that the National Shipyards and Steel Corporation (Nassco), party defendant in Civil Case No. 1613 aforementioned, may still have, if any in the area", thereby indicating that NASSCO had not compromised its own claim.

Nonetheless, We find Ourselves in no position in the instant cases at bar to make any final ruling regarding the said properties. Those lands of Amparo de los Santos and the Bambas were involved in Civil Cases Nos. 1613 and 1452 of the Court of First Instance of Camarines Norte. They appear to be private agricultural lands. But the records of those cases are not before Us in the instant proceedings, neither the papers of the amicable settlement thereof. We consider Ourselves unable to make any definite ruling as to them, considering particularly, that the trial court made no particular finding regarding them in its rather extensive decision. Under these circumstances, We have no alternative but to decide the present cases only insofar as they affect the deeds of November 23, 1973 and June 26, 1975 in relation to the acquisition of NASSCO of the mining claim of SAN MAURICIO on November 19, 1957, as above discussed, without prejudice to the appellee taking the correspond-ing legal steps to make clearer its rights over the 38 hectares just mentioned. In other words, We hold and declare that the sale by NASSCO on December 29, 1975 to appellee SMELTERS of the lands covered by the deed of SAN MAURICIO in favor of NASSCO of November 19, 1957, bearing as it does the President's approval on January 6, 1976 (See

Annex 1 of Comment of defunct NASSCO dated February 12, 1979) is legal and valid, the alleged inadequacy, or even "immorality" of the considerations therein stated notwithstanding, the justification of the stipulated consideration being sufficiently discussed in the decision of the trial court, with which We find no cogent reason to disagree. As His Honor well pointed out, the price alleged by appellants is in truth even inaccurate, for the amount of money actually paid by SMELTERS, as stipulated in the deed is much much more, in addition to obligations undertaken by the buyer to rehabilitate and develop the property and smelting plant which will require a considerable sum, justly adequate for which it bought what is practically a long abandoned junk that had lost its original purchase price. We have read the deed itself and take judicial notice of the relevant circumstances surrounding its execution as such are indicated in the appealed decision and hereby confirm His Honor's conclusion.

As regards the damages assessed by the trial court against appellants, We consider the amount awarded by the trial court as supported by the evidence of record and the law. However, the prayer for additional damages of appellee ought to be submitted for evaluation by the trial court in a subsequent hearing for the purpose.

WHEREFORE, judgment is hereby rendered affirming the decision of the trial court dated August 21, 1979, subject to the qualifications stated in the above opinion as to the de los Santos' and the Bambas' properties and the additional damages asked by appellees. With this decision, the petition in G. R. No. L-47859 involving the partial summary judgment of September 22, 1975 is now virtually moot and academic, since the par-tial judgment and immediate execution therein involved are in line with the foregoing opinion.

Costs against appellants.

Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

Fernandez, J., concurred and was designated to sit in the Second Division.

Aquino, J., did not take part.

(1) Actually, petitioners-appellants.

(1-a) Actually, petitioners-appellants.

(2) All parts in quotes are from the decision of the trial court.

(2-a) Indeed, the alleged collateral agreement must have been verbal, as there is no showing it was in writing.

(2) We may add that appellants do not pretend that if Appendix "A" of appellees' Brief were offered at the trial they would have been able to show that the same is a fabrication or in any way inaccurate.

(3) Although it may be noted that in respect to the alleged re-transfer the language of NASSCO's 14 and 15th affirmative defenses to the third-party complaint as well as that of SMELTERS' reply to the answer (referred to in paragraph (d), pp. 37-38 of the petition in G.R. No. L-47859) appear to attribute legal significance to the repurchase deed, to Our mind, the said allegations, properly under-stood, are not inconsistent but are, on the contrary in line with said appellees' fundamental position, sustained by Our foregoing opinion, that in view of Proclamation 500 and P.D. 837, NASSCO's right and authority to sell the properties in question to SMELTERS cannot be legally affected by such purported retransfer relied upon by petitioners-appellants of so-called "surface rights".

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.