

ZAMBALES CHROMITE MINING CO., GONZALO P. NAVA, VIOLA S. NAVA, FEDERICO S. NAVA, PERLA NAVA, HONORATO P. NAVA, ALEJANDRO S. NAVA, PURIFICACION SISON, A. TORDESILLAS, GUIDO ADVINC...

G.R. No. L-49711. November 07, 1979

Ponente: AQUINO, J.

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AQUINO, J.:

This is a mining case. The petitioners appealed from the second decision of the Court of Appeals, reversing its first decision and holding that it was improper for Benjamin M. Gozon, as Secretary of Agriculture and Natural Resources, to affirm his own decision as Director of Mines.

The Court of Appeals further held that the trial court's judgment, confirming the Secretary's decision, should be set aside and that the Minister of Natural Resources should review anew the decision of the Director of Mines "and, thereafter, further proceedings will be taken in the trial court". The ante-cedential proceedings are as follows:

(1) In Mines Administrative Case No. V-227, Director Gozon issued an order dated October 5, 1960 wherein he dismissed the case filed by the petitioners or pro-testants (Zambales Chromite Mining Co., Inc. or the group of Gonzalo P. Nava). In that case, they sought to be declared the rightful and prior locators and possessors of sixty-nine mining claims located in Santa Cruz, Zambales.

On the basis of petitioners' evidence (the private respondents did not present any evidence and they filed a demurrer to the evidence or motion to dismiss the protest), Director Gozon found that the petitioners did not discover any mineral nor staked and located mining claims in accordance with law.

In that same order, Director Gozon ruled that the mining claims of the groups of Gregorio Martinez and Pablo Pabiloña, now the private respondents-appellees, were duly located and registered (pp. 224-231, Record on Appeal).

(2) The petitioners appealed from that order to the Secretary of Agriculture and Natural Resources. While the appeal was pending, Director Gozon was appointed Secretary of Agriculture and Natural Resources. Instead of inhibiting himself, he decided the appeal, DANR Case No. 2151, on August 16, 1963 as if he was adjudicating the case for the first time. Thus, Secretary Gozon exercised appellate jurisdiction over a case which he had decided as Director of Mines. He acted as reviewing authority in the appeal from his own decision. Or, to use another analogy, he acted as trial judge and appellate judge in the same case.

He ruled that the petitioners had abandoned the disputed mining claims, while, on the other hand, the Martinez and Pabiloña groups had validly located the said claims. Hence, he dismissed the appeal from his own decision (pp. 340-341, Record on Appeal).

(3) On September 20, 1963, the petitioners filed a complaint in the Court of First Instance of Zambales, assailing Secretary Gozon's decision and praying that they be declared the prior locators and possessors of the sixty-nine mineral claims in question. Impleaded as defendants in the case were the Secretary of Agriculture and Natural Resources, the Director of Mines and the members of the Martinez and Pabiloña groups.

After hearing, the lower court sustained Secretary Gozon's decision and dismissed the case. It held that the disqualification of a judge to review his own decision or ruling (Sec. 1, Rule 137, Rules of Court) does not apply to administrative bodies; that there is no provision in the Mining Law, disqualifying the Secretary of Agriculture and Natural Resources from deciding an appeal from a case which he had decided as Director of Mines; that delicadeza is not a ground for disqualification; that the petitioners did not seasonably seek to disqualify Secretary Gozon from deciding their appeal, and that there was no evidence that the Secretary acted arbitrarily and with bias, prejudice, animosity or hostility to the petitioners (pp. 386-9, Record on Appeal).

(4) The petitioners appealed to the Court of Appeals. The Sixth Division of that Court (Pascual, Agcaoili and Climaco, JJ.) in its decision dated February 15, 1978 reversed the judgment of the trial court and declared that the petitioners were the rightful locators and possessors of the said sixty-nine mining claims and held as invalid the mining claims overlapping the same.

That Division found that the petitioners (Nava group) had discovered minerals and had validly located the said sixty-nine mining claims and that there was no sufficient basis for Secretary Gozon's finding that the mining claims of the Martinez and Pabiloña groups were validly located.

(5) The defendants, now the private respondents-appellees, filed a motion for reconsideration based principally on the ground that the Court of Appeals should have respected the factual findings of the Director of Mines and the Secretary of Agriculture and Natural Resources on the theory that the facts found in administrative decisions cannot be disturbed on appeal to the courts, citing Republic Act No. 4388 which amended section 61 of the Mining Law effective June 19, 1965; *Pajo vs. Ago*, 108 Phil. 905; *Palanan Lumber & Plywood Co., Inc. vs. Arranz*, 65 O. G. 8473; *Timbancaya vs. Vicente*, 119 Phil. 169; *Ortua vs. Singson Encarnacion*, 59 Phil. 440.

The defendants-movants prayed that the appeal be dismissed, meaning that the decisions of the lower court and of Director and Secretary Gozon be affirmed.

The petitioners opposed that motion for reconsideration. In their opposition, they reiterated the contention in their brief that Secretary Gozon's decision was void and, therefore, the factual findings therein are not binding on the courts.

As already stated, the same Sixth Division (composed of Pascual, Agrava and Climaco, JJ.) in its second decision of October 13, 1978, set aside its first decision and granted the motion for reconsideration. Curiously enough, the first decision was reconsidered not on the ground advanced by the movants--defendants, now the private respondents (Martinez and Pabiloña groups), which was that the factual findings of the administrative officials should be upheld, but on the ground raised in petitioners' opposition, namely, that Secretary Gozon's decision was void because he was disqualified to review his own decision as Director of Mines.

So, as already noted, the Court of Appeals in its second decision remanded the case to the Minister of Natural Resources for another review of Director Gozon's decision. This was the prayer of the petitioners in their brief but in their opposition to the motion for reconsideration, they prayed that the first decision of the Court of Appeals in their favor be maintained.

(6) The second decision did not satisfy the parties. They filed motions for reconsideration. The petitioners in their motion reiterated their prayer that the first decision be reinstated. They abandoned their prayer that the case be

returned to the Minister of Natural Resources.

On the other hand, the private respondents in their motion insisted that the trial court's decision be affirmed on the basis of the factual findings of the Director of Mines and the Secretary of Agriculture and Natural Resources. The Court of Appeals denied both motions in its resolutions of December 27, 1978 and January 15, 1979.

Only the petitioners appealed from the second decision of the Court of Appeals. There is an arresting and noteworthy peculiarity in the present posture of this case now on appeal to this Court (as arresting and noteworthy as the peculiarity that Secretary Gozon reviewed his own decision as Director of Mines).

That twist or peculiarity is that while the petitioners (Nava group) in their appellants' brief in the Court of Appeals prayed that Secretary Gozon's decision, alleged to be biased, be declared void and that the case be returned to the Secretary of Agriculture and Natural Resources for another review of Director Gozon's order, in their appellants' brief in this Court, they changed that relief and they now pray that the second decision of the Court of Appeals, referring this case to the Minister of Natural Resources for another review, be declared void and that its first decision be affirmed.

In contrast, the private respondents, who did not appeal from the second decision of the Court of Appeals, instead of sustaining its holding that this case be referred to the Minister of Natural Resources or instead of defending that second decision, they being appellees, pray for the affirmance of the trial court's judgment sustaining the decisions of Director and Secretary Gozon.

The inconsistent positions of the parties, which were induced by the contradictory decisions of the Court of Appeals, constitute the peculiar twist of this case in this Court.

We hold that Secretary Gozon acted with grave abuse of discretion in reviewing his decision as Director of Mines. The palpably flagrant anomaly of a Secretary of Agriculture and Natural Resources reviewing his own decision as Director of Mines is a mockery of administrative justice. The Mining Law, Commonwealth Act No. 137, provides:

"SEC. 61. Conflicts and disputes arising out of mining locations shall be submitted to the Director of Mines for decision:

"Provided, That the decision or order of the Director of Mines may be appealed to the Secretary of Agriculture and Natural Resources within thirty days from the date of its receipt.

"In case any one of the parties should disagree from the decision or order of the Director of Mines or of the Secretary of Agriculture and Natural Resources, the matter may be taken to the court of competent jurisdiction within thirty days from the receipt of such decision or order; otherwise the said decision or order shall be final and binding upon the parties concerned." (As amended by Republic Act No. 746 approved on June 18, 1952).*

Undoubtedly, the provision of section 61 that the decision of the Director of Mines may be appealed to the Secretary of Agriculture and Natural Resources contemplates that the Secretary should be a person different from the Director of Mines.

In order that the review of the decision of a subordinate officer might not turn out to be a farce, the reviewing officer must perforce be other than the officer whose decision is under review; otherwise, there could be no different view or there would be no real review of the case. The decision of the reviewing officer would be a biased view; inevitably, it would be the same view since being human, he would not admit that he was mistaken in his first view of the case.

That is the obvious, elementary reason behind the disqualification of a trial judge, who is promoted to the

appellate court, to sit in any case wherein his decision or ruling is the subject of review (Sec. 1, Rule 137, Rules of Court; secs. 9 and 27, Judiciary Law).

A sense of proportion and consideration for the fitness of things should have deterred Secretary Gozon from reviewing his own decision as Director of Mines. He should have asked his Undersecretary to undertake the review.

Petitioners-appellants were deprived of due process, meaning fundamental fairness, when Secretary Gozon reviewed his own decision as Director of Mines. (See *Amos Treat & Co. vs. Securities and Exchange Commission*, 306 F. 2nd 260, 267.)

WHEREFORE, we set aside the order of the Secretary of Agriculture and Natural Resources dated August 16, 1963 as affirmed by the trial court as well as the first decision of the Court of Appeals.

We affirm its second decision, returning the case to the Minister of Natural Resources, with the directive that petitioners' appeal to the Minister be resolved de novo with the least delay as provided for in Presidential Decree No. 309, "establishing rules and procedures for the speedy disposition or settlement of conflicting mining claims".

We reverse the second part of that second decision stating that "thereafter, further proceedings will be taken in the trial court". That portion is unwarranted because the trial court does not retain any jurisdiction over the case once it is remanded to the Minister of Natural Resources. No costs.

SO ORDERED.

Antonio, Santos, and Abad Santos, JJ., concur.

Barredo, J., (Chairman), concur but wish to add that the reason why the undersecretary could ask is because when the Secretary is disqualified, he should be deemed as absurd or incapacitated to act, how's the undersecretary should be correspondingly deemed as the secretary for the purpose of the case in question. Needless to say, the Undersecretary should act in such a way as to avoid every instruction that he has been dictated upon actually by the secretary.

Concepcion, Jr., J., did not take part.

* Section 61 was further amended by Republic Act No. 4388, which took effect on June 19, 1965 by changing the "court of competent jurisdiction" to "Court of Appeals or the Supreme Court, as the case may be", and by providing that "findings of facts in the decision or order of the Director of Mines, when affirmed by the Secretary of Agriculture and Natural Resources shall be final and conclusive, and the aggrieved party or parties desiring to appeal from such decision or order shall file in the Supreme Court a petition for review wherein only questions of law may be raised."

As to the existing procedure for review, see sections 3, 4 and 5 of Presidential Decree No. 309, dated October 10, 1973 which establishes rules and procedures for the speedy disposition or settlement of conflicting mining claims; sections 48 to 50 of the Mineral Resources Development Decree of 1974, Presidential Decree No. 463, dated May 17, 1974, regarding protests, adverse claims and appeals, involving the right to possession, lease, exploration or exploitation of any mining claim, and section 7 of Presidential Decree No. 1281, dated January 16, 1978, regarding review of the decisions of the Director of Mines in cases involving mining agreements or contracts.

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