

DANIEL ROMERO, ET AL., PETITIONERS, VS. PALAWAN MANGANESE MINE, INC., ET AL., RESPONDENTS.*G. R. No. L-16998. April 24, 1963*

Ponente: DIZON, J.

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[On November 6, 1936, petitioners, doing business under the name and style of Kalawag Mining Enterprise, declared and located the Malcocobi No. 1, Placer Mining Claim situated in the municipality of Coron, Palawan. In March, 1937, a group of five persons headed by Amelia E Zaldua relocated the same mining as Balitbitin No. 3. On April 27 of the same year, respondent Palawan Manganese Mines, Inc. relocated, among others, the mining claim known as San Nicolas Lode Claim No. 4 which included the area of the mining claim located by petitioners and Zaldua.

On May 19, 1938, Zaldua and her associates filed a Placer Lease Application covering the Balitbitin No. 3, to which the Palawan Manganese Mines Inc. filed an opposition. On the other hand, on October 8, 1938, the latter filed an action in the Court of First Instance of Palawan against Zaldua and her associates (Civil Case No. 153) where the court, after proper proceedings, denied Zaldua's right to take a lease on the area of the claim Balitbitin No. 3, having found that it was already covered by the placer claim San Nicolas No. 4 mentioned heretofore.

On December 13, 1940, petitioners filed a Lease Application with the respondent Director of Mines for the mining claim Malcocobi No. 1, (otherwise known as Balitbitin No. 3, and included in the area of mining claim San Nicolas No. 4), against which respondent corporation filed an opposition. On October 5, 1950, the Director of Mines granted the latter a temporary permit to extract manganese ore from the San Nicolas No. 4 lode claim, for a period of six months from October 7, 1950 upon the filing of a bond in the amount of P9,000:00. Respondent corporation filed the required bond, with respondent Manila Insurance Co. Inc., as surety, conditioned upon payment of such damages as adverse claimants may suffer as a result of the temporary permit. It is not denied that respondent corporation—pursuant to its permit—extracted a total of 258 tons of ore during the period for which it was granted. Thereafter, the Director of Mines rendered a decision denying petitioner's Lease Application and declaring that respondent corporation had the preferential right to apply either for patent, under the Act of Congress of July 1, 1902, as amended, or for lease, under Commonwealth Act. No. 137, as amended, in connection with the San Nicolas No. 4 lode mineral claim. On appeal, this decision was reversed by the Secretary of Agriculture and Natural Resources who ruled that respondent corporation had no right over the San Nicolas Lode Claim No. 4, and recognized the right of petitioners to the area included therein which constituted the mining claim known as Balitbitin No. 3 or Malcocobi No. 1. This decision became final as the Court of First Instance of Palawan and this Court refused to grant relief therefrom to the defeated party on the ground that such relief was sought out of time.

On the basis of the decision last mentioned, petitioners commenced the present action for damages in the Court of First Instance of Manila to recover from respondents ' the value of the ore extracted by the latter from the mining claim in controversy. Respondents interposed the defense, among others, that petitioners had no cause of action.

After trial, the trial court rendered judgment dismissing the complaint. The Court of Appeals affirmed said judgment. Hence the present appeal by certiorari.

Petitioners base their cause of action upon the claim that the decision of the Secretary of Agriculture and Natural Resources granted them net merely a preferential right to have a lease on the disputed mining claim but the "absolute right to exploit and enjoy" the same. Upon this premise they claim that the Palawan Manganese Mines Inc. should pay them the value of the 258 tons of ore it had extracted from the mining claim in question pursuant to its temporary permit. We find this claim to be untenable.

We agree with the finding of both the trial court and the Court of Appeals that the decision relied upon by petitioners merely recognizes their preferential right to take the lease from the government on the mining' claim in question. Obviously, they can net claim ownership thereof; but neither can they rightfully claim the "absolute right to exploit and enjoy said mining claim" for the simple reason that, as found by the Court of Appeals, their lease application was, until March 6, 1957, pending action because they had not complied with all the requirements of the law on the subject. This is a finding¹ of fact fully supported by the contents of Exhibit 11, and one that we can now review in this appeal by certiorari. Such being the case, it seems clear that petitioners have no cause of action for damages against respondents.

Wherefore, the decision appealed from is affirmed, with costs.

Bengzon, C. J., Padilla, Bautista Angela, Conception, Reyes, J.B.L., Barrera, Paredes, Regala and Makalintal, JJ., concur.

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