

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

*G.R. No. L-49143. August 21, 1989*

Ponente: PARAS, J.

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**PARAS, J.:**

This is a petition for certiorari and prohibition with preliminary injunction seeking to enjoin the Minister (now Secretary) of Natural Resources and the Director of Mines from enforcing Presidential Decree No. 1214 dated October 14, 1977 requiring all locators under the Act of Congress of July 1, 1902, as amended, to apply for mining lease contracts under the provision of Presidential Decree No. 463 better known as the Mineral Development Resources Decree of 1974 and to declare Presidential Decree No. 1214 unconstitutional since its enforcement would deprive petitioners of its property without due process and without just compensation.

Petitioner Zambales Chromite Mining Company, Inc. is a mining corporation duly organized and existing under and by virtue of the laws of the Philippines.

Petitioner claims that it is the owner and holder of sixty (60) mineral claims which it acquired through purchase in good faith and for value 43 years ago. Said claims situated at the Municipality of Sta. Cruz, Zambales, were located and registered in 1934 under the Act of U.S. Congress of July 1, 1902 (known as the Philippine Bill of 1902). (Petition, p. 2; Rollo, p. 3); that from 1934 to 1977 it has to its credit a total investment of over P1,222,640.00 for the mining exploration, development and operation of its said sixty mining claims (Petition, p. 3; Rollo, p. 4); that on June 14, 1977 it actually and duly filed its application for patent for each claim of said sixty (60) mineral claims (Petition, p. 4; Rollo, p. 5); that respondent Director of Mines issued an order dated July 13, 1977 approving the application of petitioner for availment of rights on said claims under Presidential Decree No. 463 (Petition, p. 5; Rollo, p. 6); that the aforesaid sixty (60) lode mineral claims are already private property of petitioner, following the doctrinal rule laid down in *McDaniel v. Apacible and Cuisia* (42 Phil. 749; 753-754) and *Gold Creek Mining Corporation v. Rodriguez, et al.* (66 Phil. 259) which had already been segregated from the public domain to which petitioner is entitled to the exclusive possession and enjoyment against everyone; that the issuance of Presidential Decree No. 1214 on October 14, 1977 which declared open to lease subsisting and valid patentable mining claims, lode or placer, located under the provisions of the Act of U.S. Congress of July 1, 1902, as amended, already segregated from the public domain and owned and held by it for over 43 years and requiring it without fail and against their will to file a mining lease application with the Mines Regional Office concerned within a period of one year from October 14, 1977 is a deprivation of petitioner's rights to the ownership of said claims without due process of law nor just compensation and therefore, unconstitutional.

The Court in its resolution dated November 3, 1978, gave due course to the petition and required respondents to comment (Rollo, p. 33). The Solicitor General as counsel for public respondent, filed his comment on March 26,

1979 (Rollo, pp. 58-71-A).

On May 10, 1979, petitioner filed a reply (Rollo, p. 83) to the comment in compliance with the resolution of April 10, 1979. But on May 9, 1979, Baguio Gold Mining Company, Philex Mining and Regalian Mining Corporation filed with the Court two separate motions for leave to intervene (Rollo, p. 120).

On February 10, 1981, Baguio Gold Mining Company, Philex Mining Company and Regalian Mining Corporation filed with the court a Joint Petition for Intervention (Rollo, p. 171) raising the same issues brought up by petitioner Zambales Chromite Mining Company regarding the constitutionality of P.D. No. 1214 based on the doctrinal mandates of the ruling cases of *McDaniel v. Apacible*, 42 Phil. 749 [1922] and *Gold Creek Mining Corporation v. Rodriguez*, 66 Phil. 259 [1939]; *Salazar Mining Co. v. Rodriguez, et al.* 67 Phil. 97, insofar as it invests inter alia, private ownership in patentable mining claims to have survived to date due to a faithful compliance with the various requirements of applicable mining laws to include the land surface of said mining claims. Petitioner's memorandum was adopted by intervenors as to the factual and legal showing of the unconstitutionality of Presidential Decree No. 1214 (Rollo, pp. 455-456).

The Solicitor General as counsel for public respondent submitted his memorandum on February 12, 1982 (Rollo, pp. 468--499) while petitioner filed its reply to said memorandum on April 3, 1982 (Rollo, pp. 505-560).

Counsel for petitioner on August 20, 1982 filed a motion to refer this case to the Court En Banc for action and decision (Rollo, p. 536) and on September 8, 1982, the Court resolved to issue a temporary restraining order, effective as of said date and continuing until otherwise ordered by the Court (Rollo, p. 562).

On February 11, 1988 the Court acting on the motion for intervention filed by counsel for intervenor Francisco N. Calinisan dated January 6, 1988, and considering that this case has long been submitted for decision, resolved to deny the aforesaid motion for having been filed late (Rollo, p. 597).

The principal issue raised by the petitioner and by the erstwhile intervenors, is: whether or not under the provision of P.D. No. 1214 there was deprivation of property without due process of law and just compensation which makes said decree unconstitutional.

Their contention that a perfected and valid appropriation of public mineral lands operates as a withdrawal of the tract of land from the public domain and is deemed to be already private property, is without basis in fact and in law (Comment, Rollo, p. 61).

This issue has been resolved in a recent decision of this Court in *Sta. Rosa Mining Co., Inc. v. Leido, Jr.* (156 SCRA 1 [1987]) where it was held that while rulings in *McDaniel v. Apacible* (42 Phil. 749 [1922]) and *Gold Creek Mining Corp. v. Rodriguez* (66 Phil. 259 [1938]) cited by the petitioner, true enough, recognize the right of a locator of a mining claim as a property right; such right is not absolute. It is merely a possessory right more so if petitioner's claims are still unpatented. It can be lost through abandonment or forfeiture or they may be revoked on valid legal grounds.

In the case at bar, there is no showing that petitioner has complied with all the terms and conditions prescribed by law prior to November 15, 1935; that there should be not only a valid and subsisting location of the mineral land but that there should be, thereafter, continuous compliance with all the requirements of law such as the performance of annual assessment works and payment of real estate taxes. In fact, petitioner filed its application only in 1977 for a patent, or 43 years after it allegedly located and registered the mining claims (Rollo, p. 63).

As to the issue of constitutionality, the Court categorically stated that P.D. No. 1214 is constitutional.

The Court ruled:

"x x x It is a valid exercise of the sovereign power of the State, as owner, over lands of the public domain, of which petitioner's mining claims still form a part, and over the patrimony of the nation, of which mineral deposits are a valuable asset. It may be underscored, in this connection, that the Decree does not cover all mining claims located under the Phil. Bill of 1902, but only those claims over which their locators had failed to obtain a patent. And even then, such locators may still avail of the renewable twenty-five year (25) lease prescribed by Pres. Decree No. 463, the Mineral Development Resources Decree of 1974.

"Mere location does not mean absolute ownership over the affected land or the mining claim. It merely segregates the located land or area from the public domain by barring other would-be locators from locating the same and appropriating for themselves the minerals found therein. To rule otherwise would imply that location is all that is needed to acquire and maintain rights over a located mining claim. This, we cannot approve or sanction because it is contrary to the intention of the lawmaker that the locator should faithfully and consistently comply with the requirements for annual work and improvements in the located mining claim." (Santa Rosa Mining Co., Inc. v. Leido, Jr., supra, pp. 8-9)

P.D. No. 1214 is in accord with Section 8, Article XIV of the 1973 Constitution and presently in Section 2, Article XII of the 1987 Constitution where the same constitutional mandate is restated.

On June 2, 1988, the Court granted a motion filed by counsel for petitioner dated May 20, 1988 to admit a manifestation and motion wherein petitioner prayed that the "Court allow the petitioner to change the original prayer in its petition dated October 10, 1978 with a new prayer directing public respondents to dispose of petitioner's application on its own merit unaffected and without regard to the provision of P.D. 1214 x x x." (p. 631, Rollo)

Records show that petitioner Zambales Chromite filed its patent application over its 60 mining claims on June 14, 1977 and to order such disposal of said "application on its own merit" is not within the scope of the jurisdiction of the Court. For, even assuming claimant to be a holder of a subsisting and valid patentable mining claim, this Court has held that it can no longer proceed with the acquisition of a mining patent in view of P.D. No. 1214, issued on October 14, 1977, directing holder of subsisting and patentable mining claims, lode or placer, located under the provisions of the Act of Congress on July 1, 1902, as amended, to file a mining lease application x x x within one year from the approval of the Decree and upon the filing thereof, holders of said claims shall be considered to have waived their rights to the issuance of mining patents therefor: Provided, however, that the non-filing of the application for mining lease by the holders thereby within the period herein prescribed shall cause the forfeiture of all his rights to the claim". (Director of Lands v. Kalahi Investments, Inc., G.R. No. L-48066, January 31, 1989). (Underscoring supplied)

PREMISES CONSIDERED, the instant petition is DENIED for lack of merit.

### **SO ORDERED.**

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

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