

**PEDRO C. TIANGCO, ABRAHAM POLLOSO, FELICIANO GUESE,
ANTONIO E. PASTOR, SOSONTE DIZON, LUCILA VILLALUZ, SIMEON
E. PASTOR, RUFINO ANDRADE, GERMAN ROJO, ANTOLIN E. GOJAR
AND EDUARD...**

G.R. No. L-22662. October 30, 1969

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is an appeal from a resolution of the Court of First Instance of Occidental Mindoro dismissing the complaint in its Civil Case No. 139.

On January 5, 1962 the plaintiffs filed a complaint in the court below against the defendants, alleging inter alia: that sometime in 1954 and 1958 the plaintiffs discovered, staked, located and registered several mining claims in barrio Nagsabungan, municipality of Abra de Ilog, province of Occidental Mindoro; that sometime in 1958 the defendant corporation, thru Eladio Cruz and Macario Feliciano, allegedly staked, located and registered mining claims denominated as Hercules 1 to 24 and Feli 1 to 23 over the same plat of ground covered by the plaintiffs' claims; that the defendant corporation was not yet legally in existence when its claims were located by its supposed agents; that since the mining claims of the plaintiffs were discovered, staked, located and registered much ahead of the defendant corporation's claims, the plaintiffs had the priority to lease the areas covered by their mineral claims; that the lode claims known as Rully 1 and 2 of plaintiffs Pedro C. Tiangco and Feliciano Guese had already been surveyed for lease purposes, while other claims were covered by correspond-ing lease applications and under the plaintiffs' possession; that on September 23, 1959 the defendant corporation filed with the Director of Mines a protest, docketed as Mines Ad-ministrative Case No. V-272, against the lease survey of the lode claims Rully 1 and 2 of plaintiffs Pedro C. Tiangco and Feliciano Guese on the ground that said claims overlapped its mining claims Hercules 5 and 6 and Feli 2,3,5, and 6, while on September 29, 1959 the plaintiffs intervened in Mines Ad-ministrative Case No. V-273 (protest filed against the defendant corporation by Consolidated Mines, Inc.) and pro-tested against the lease survey of the lode claims Hercules 4, 5, 6, 22 and 24 and Feli 1, 2, 3, 4, 5, 6, and 18 of the defendant corporation on the ground that said claims over-lapped the bigger portion of the area covered by the mining claims of the plaintiffs; that the aforementioned cases were jointly heard by the Investigating Officer of the Bureau of Mines and thereafter a decision was rendered declaring the mining claims of the plaintiffs null and void; that the de-cision of the Director of Mines was appealed to and affirmed by the Secretary of Agriculture and Natural Resources; that the aforementioned decision was rendered after a half-hazard and biased trial; and that it was not supported by competent evidence and not in accordance with law. The plaintiffs, therefore, prayed that the mineral claims of the defendant corporation be declared null and void; that the lease contract of the defendant corporation, if any, be cancelled or its lease application denied; and that the Director of Mines and the Secretary of Agriculture and Natural Resources be ordered to give due course to the lease application of the plaintiffs.

On February 8, 1962 the defendants Secretary of Agriculture and Natural Resources and the Director of Mines

moved jointly to dismiss the complaint on the ground that it was filed outside the period of thirty (30) days provided in Section 61 of Commonwealth Act No. 137, as amended by Republic Act No. 746. The defendant corporation filed its answer to the complaint, invoking the same ground as a special defense and submitting it for preliminary hearing and consideration. Finding the ground relied upon by the defendants to be meritorious, the lower court dismissed the complaint in a resolution dated April 4, 1962.

The plaintiffs moved to reconsider, and upon denial of their motion interposed this appeal, alleging that the lower court committed the following errors: (1) in not conducting a hearing on the merits of the case which is to quiet title on mining claims; (2) in practically withdrawing controversies in mining from the general jurisdiction of the courts; (3) in holding that the decision of the Director of Mines, as affirmed by the Secretary of Agriculture and Natural Resources, was already final in accordance with the Mining Act; (4) in holding that Section 61 of Commonwealth Act No. 137 as amended by Republic Act No. 746 is mandatory, not directory; and (5) in dismissing the complaint, and denying the motion for reconsideration filed in due time.

The appellants contend that since the action is one to quiet title concerning mining claims, the lower court should have conducted a hearing on the merits in order to settle the conflicts between the parties. The contention is clearly without merit. The allegations in the complaint unequivocally show that the action was by way of appeal from the decision of the Secretary of Agriculture and Natural Resources under the provision of Section 61 of Commonwealth Act No. 137, as amended by Republic Act No. 746, which states:

"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; other-wise the said decision or order shall be final and binding upon the parties concerned."

The above-quoted provision is clear and explicit. In an earlier case involving its application this Court said:[1]

"It would appear from the above that in case 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 over a conflict or dispute which arises out of a mining location the matter may be taken to the court of competent jurisdiction within 30 days from receipt of such order or decision, otherwise the same shall become final and binding upon the parties concerned. Here there is no dispute that the required period of 30 days had already lapsed when appellant actually instituted the present action, and such being the case it would appear that the court a quo was correct in ruling that the action of appellants is already lost and the case should be dismissed."

In the instant case the lower court found that the decision of the Secretary of Agriculture and Natural Resources was received by counsel for the appellants on September 1, 1961; that on September 29, 1961, or after the lapse of 28 days, the appellants filed a motion for reconsideration, which was denied on November 28, 1961; that on December 8, 1961 the appellants' counsel received the order denying the motion for reconsideration; and that the complaint was filed in court on January 5, 1962. Not counting the period of the pendency of the motion for reconsideration, fifty-six (56) days passed from the receipt of the decision up to the filing of the complaint. The decision had indeed become final.

The appellants contend, however, that the action was within the original, not appellate, jurisdiction of the court under Section 73 of the Mining Act. This section provides:

"SEC. 73. At any time during the period of application, any adverse claim may be filed under oath with the Director of Mines, and shall state in full detail the nature, boundaries, and extent of the adverse claim, and

shall be accompanied by all plans, documents, and agreements upon which such adverse claim is based: Provided, however, That no adverse claim from any person association, partnership or corporation, whose protest filed under section sixty-one of this Act has already been finally decided by the Director of Mines and/or the Secretary of Agriculture and Natural Resources, shall be entertained. Upon the filing of any adverse claim all proceedings except the publication of notice of application for lease and the making and filing of the affidavit in connection therewith, as herein prescribed, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction to determine the controversy and to prosecute the same with reasonable diligence to final judgment, and a failure to do so shall be considered as a waiver of his adverse claim. x x x" (Underscoring supplied)

It is obvious that the foregoing provision does not govern this case. It contemplates a situation where no conflict or dispute concerning mining locations has been submitted to and decided administratively under Section 61. If there is such a conflict and a decision is rendered by the Director of Mines and/or the Secretary of Agriculture and Natural Resources, then the only recourse of the losing party is to appeal to the court, and the appeal must be taken within the peremptory period of thirty (30) days. No adverse claim under Section 73 shall be entertained once the administrative decision rendered under Section 61 has become final. Otherwise there would, be multiplicity of suits involving the same parties, subject matter and cause of action, wherein conceivably there may be conflicting decisions, both of them final - one administrative and the other judicial.

Wherefore, the resolution appealed from is hereby affirmed, with costs against the appellants.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Sanchez, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

[1] Fianza vs. National Power Corporation, G. R. No. L-17477, December 30, 1961; 3 SCRA 905, 908.

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