

UNITED PARACALE MINING COMPANY, PETITIONER, VS. THE COURT OF APPEALS, THE DIRECTOR OF LANDS AND JOSE CHUATENGCO, RESPONDENTS.

G.R. No. 104721. May 31, 1994

Ponente: VITUG, J.

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VITUG, J.:

The instant petition seeks a review of the decision of respondent Court of Appeals which has affirmed the order of the Regional Trial Court, Branch 39, Daet, Camarines Norte, dismissing Civil Case No. 4905.

The facts of the case, summarized by respondent appellate court, may be stated, thus:

On 14 April 1982, petitioner United Paracale Mining Company filed a complaint (docketed Civil Case No. 4905) against the Director of Lands and fifty-three (53) other individual defendants, alleging, among other things, that the company was the owner of some forty-nine (49) mining claims located in Paracale, Camarines Norte, having located and perfected the claims under the provisions of the Philippine Bill of 1902 and Act No. 624, as amended. These mining claims were thereby supposed to be private property of the company and segregated from the mass of the public domain. Since 1930 and 1934 up until now, petitioner, by itself and through its predecessors-in-interest, had been performing the annual assessment work required by law, filing the corresponding affidavits of assessment work with the office of the mining recorder and paying real estate taxes on the mining claims. Petitioner had applied for a patent on the claims, and the Bureau of Mines approved and recognized the company's rights over the mining claims.

On 16 October 1978, petitioner filed with the Bureau of Mines an application for mining lease over the claims, with a reservation that "(t)he filing of th(e) application for mining lease (was) without prejudice to the rights of the applicant and its predecessors-in-interest in and all the mineral claims object thereof acquired under the provisions of the Act of Congress of July 1, 1902, x x x."

On 11 June 1982, thirty-seven (37) of the fifty-three (53) individual defendants filed an answer denying the material allegations of the complaint. On 08 September 1992, herein private respondent Jose Chuatengco filed a motion to dismiss the complaint, asseverating that the complaint did not state a cause of action. Chuatengco cited Section 1 of Presidential Decree No. 1214 which directed "(h)olders of subsisting and valid patentable mining claims, lode or placer, located under the provisions of the Act of Congress of July 1, 1902, as amended, shall file a mining lease application x x x within one (1) year from the approval of this Decree, and upon the filing thereof, holders of the 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 thereof within the period (therein) prescribed (would) cause the forfeiture of all x x x rights to the claim."

On 25 April 1966, the trial court granted the motion to dismiss; whereupon, petitioner filed an appeal with respondent court. On 15 November 1990, the appellate court affirmed the decision of the trial court.

Here then is the instant petition.

The query of petitioner: "What is actually the right of a locator of mining claim located and perfected under the Philippine Bill of 1902. Does he have an absolute right of ownership, or merely a right to possess said claim?"

Petitioner contends that there are two (2) conflicting rulings made by this Court on the same issue. In *Director of Lands vs. Kalahi Investments, Inc.* (169 SCRA 683), a locator of mining claims perfected under the Philippine Bill of 1902 has been held not to have an absolute right of ownership over said claims but merely a possessory right thereto. In *Atok-Big Wedge Mining Company, Inc. vs. Court of Appeals and Liwan Consi* (193 SCRA 71), however, a locator of mining claim perfected under the Philippine Bill of 1902, the Court has ruled, does have an absolute right of ownership over his claim being thereby removed from the public domain.

In its resolution, dated 01 June 1992, the Court required respondents to file their respective comments.

On 10 November 1993, the Solicitor General filed a comment and motion, dated 06 November 1993, alleging that when petitioner appealed the trial court's order of dismissal of Civil Case No. 4905, only private respondent Chuatengco was named adverse party; the Director of Lands was not included. The Solicitor General thus prayed:

"WHEREFORE, premises considered, it is respectfully prayed that the Director of Lands be excluded as respondent in the present petition; that the motions for extension of time to file comment in behalf of the Director of Lands be disregarded; and that the Director of Lands be excused from filing the required comment." [1]

Atty. Freddie Venida, counsel for private respondent, has failed to comply with the Court's resolution of 10 February 1993, notice of which appears to have been received by him on 07 April 1993. The period given him having expired on 17 April 1993, the required comment is hereby dispensed with.

Section 7, Rule 3 of the Revised Rules of Court provides:

Sec. 7. Compulsory joinder of indispensable parties.--Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants."

An action cannot proceed unless the indispensable parties are joined; [2] that joinder is mandatory and, unless such indispensable parties are impleaded, the case must be dismissed. [3] Clearly, the Director of Lands is an indispensable party to the case, and his omission is fatal to the cause of herein petitioner.

WHEREFORE, the petition is DISMISSED. Costs against petitioner.

SO ORDERED.

Bidin, Romero, and Melo, JJ., concur.

Feliciano, J., (Chairman), no part.

[1] Rollo, p. 116.

[2] See *Tay Chun Suy vs. Court of Appeals*, 212 SCRA 713; *Cortez vs. Avila*, 101 Phil. 205; *Borlasa vs. Polistico*, 47 Phil. 345.

[3] See *National Development Co. vs. Court of Appeals*, 211 SCRA 422.

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