

MARCOPPER MINING CORPORATION, PETITIONER, VS. ALBERTO G. BUMOLO IN HIS OWN BEHALF AND AS ATTORNEY-IN-FACT OF BENITO CACHILI, CONCHITA BUMOLO, PATRICIO DURLAO, JACINTO ALIGUYON, ...

G.R. No. 139548. December 22, 2000

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

MARCOPPER MINING CORPORATION registered its mining claims in Pao, Kasibu, Nueva Vizcaya with the Department of Environment and Natural Resources (DENR) from 2 February 1982 to 12 October 1982. Private respondents Alberto G. Bumolo, Benito Cachili, Conchita Bumolo, Patricio Dumlao, Jacinto Aliguyon, Alfonso Maddawat, Toledo Gillao, Jose Tigo and Peter Cabiggat Bumolo and others, namely, Rosario Camma, Mariano Maddela, Victor Guiaoan and Catalino Randa, registered their mining claims in the same area from 28 July 1981 to 22 September 1988, which claims were subsequently converted into Mineral Production Sharing Agreements (MPSA).

On 12 March 1982 petitioner entered into Option Agreements over the mining claims with respondent Alberto G. Bumolo, for himself and as attorney-in-fact of the other respondents on one hand; and with Rosario Camma on the other, for herself and as attorney-in-fact of the rest. Under the Agreements, petitioner was granted the exclusive and irrevocable right to explore the mining claims for three (3) years with provision for extension.

On 23 December 1982 and 26 March 1987 petitioner filed Prospecting Permit Applications (PPA) with the Bureau of Forest Development, DENR, on the alleged ground that a portion of the area covered by the mining claims was within the Magat River Forest Reservation under Proc. 573 of 26 June 1969[1] and with the Department of Agrarian Reform (DAR) on account of alleged coverage of the other portion within the Nueva Vizcaya-Quirino Civil Reservation under Proc. 1498 of 11 September 1975.[2]

On 11 February 1991 and 12 March 1991 petitioner informed respondent Alberto G. Bumolo and Rosario Camma that it was terminating the Agreements since its conduct of a systematic exploration program disclosed that the area was relatively weak and of limited tonnage which did not justify further drilling for big tonnage of low grade gold exploration target.

On 15 July 1991 DENR Regional Executive Director Leonardo A. Paat rejected petitioner's Prospecting Permit Application (PPA) on the ground that the Memorandum of 8 July 1991 endorsed by the Regional Technical Director for Mines revealed that the area covered was outside government reservation; that the prospect claim was in conflict with existing claims; and, that the area had been extensively explored in the early 1980's.[3]

On 15 August 1991 petitioner moved for reconsideration. On 9 June 1995 Regional Executive Director Samuel Paragas recommended to the DENR Secretary that petitioner's request for reconsideration be denied; that the existing rights of mining claim holders be respected; and, that the prior legal rights of MPSA/Financial and

Technical Assistance Agreement applicants over subject area be recognized.[4]

As regards petitioner's PPA filed with the DAR, it appeared that it was issued a clearance to prospect for six (6) months from 11 December 1995.[5]

On 15 August 1997 petitioner appealed to public respondent Mines Adjudication Board (MAB), DENR, naming respondents Alberto G. Bumolo, Benito Cachili, Conchita Bumolo, Patricio Dumlao, Jacinto Aliguyon, Alfonso Maddawat, Toledo Gillao, Jose Tigo and Peter Cabiggat Bumolo as appellees. Petitioner maintained that subject area was within the Magat River Forest Reservation. On 11 June 1998 the rejection of the PPA was affirmed whereas the mining claims of respondents Alberto G. Bumolo et al. that had been converted into a MPSA, subject to compliance with R.A. 7942[6] and DAO No. 96-40,[7] were given due course.[8]

On 16 July 1998 petitioner moved for reconsideration. On 29 March 1999 private respondents Dalton Pacific Resources (Dalton) and Orophilippines Ventures, Inc. (OVI) filed an Omnibus Motion for their joinder as parties on the ground that on 17 July 1992 they had entered into a Memorandum of Agreement with respondent Alberto G. Bumolo on his own behalf and as attorney-in-fact of Camma, et al. granting the companies exclusive and irrevocable right to explore and operate the area subject of the mining claims. On 13 May 1999 respondent MAB denied petitioner's motion and formally joined respondents Dalton and OVI with the original appellees as parties in the case.[9]

The only relevant issue raised by petitioner[10] pertains to whether respondent MAB erred in finding that the area subject of the PPA was outside the Magat River Forest Reservation.

Petitioner notes that the Magat River Forest Reservation has a tie point at coordinates 17 degrees 40'29" and 121 degrees 30'40" in Nueva Vizcaya which puts the river basin too far to the north. Petitioner submits that an error must have been committed in the Engineering Section of the DENR by typing the latitude as "17" instead of "16" degrees; if corrected, the river basin would cover exactly the basin on the ground making the area subject of the PPA within the Magat River Forest Reservation.

The petition lacks merit. Readily apparent is that the issue deals with a factual matter. In this regard, factual findings of quasi-judicial agencies which have acquired expertise in matters entrusted to their jurisdictions are accorded by this Court not only respect but finality if supported by substantial evidence.[11] In this instance, there is no reason to disagree with respondent MAB.

We recall that petitioner previously conducted a systematic exploration program of subject area which yielded the result that it was relatively weak and of limited tonnage and thus did not justify further drilling for big tonnage of low grade gold exploration target. Consequently, it terminated the Option Agreements with respondents and the group of Camma. This, notwithstanding, it still showed interest when it filed a PPA over the area. We agree with the observation of Regional Executive Director Paragas and respondent MAB that petitioner's action of filing a PPA over the area it previously found relatively weak and of limited tonnage was absurd.

Respondent MAB correctly upheld the ratiocination of Regional Executive Director Paragas in denying petitioner's PPA, pertinent portions of which read -

x x x x the said rejection by the region was anchored on the July 8, 1991 Memorandum Report of then RTD for Mines Nestor Punsal, Jr. to then RED Leonardo A. Paat x x x wherein it was clearly cited that Marcopper's proposed prospecting area covering

about 4,941 hectares lies outside Magat Forest Reserve. Such being the case, a PPA is not the proper instrument for said company to avail of in order to have the right to prospect over the area. Instead, the filing of Declarations of Location (DOL) would have been proper.

The records, however, show that Marcopper already holds right over some parts of the applied area through its PAO 1-30 mining claims (2,430 hectares) filed under PD 463 in late 1982. The same report noted that it was rather unusual for Marcopper to have applied for Prospecting Permit over the same area covered by existing PD 463 claims including that of its own x x x x

The disapproval of Marcopper's PPA moreover, did not emanate from a single recommendation of the RTD for Mines. Records would show that as early as May 31, 1989 x x x the Bumolo group of PD 463 claims which Marcopper has eventually surrounded by filing its own PAO 1-30 group of claims x x x x was confirmed by the Forest Engineering Section of the region to be outside proclaimed watershed areas, wilderness, national parks and existing government reforestation projects x x x x

Then again for Marcopper to include the Bumolo group of claims in its PPA and thereby subject the same to another round of prospecting is but ridiculous considering that the same company have in the past conducted detailed investigation activities over the same areas and have accordingly declared said claims to be relatively weak and indicate a quite limited tonnage potential to justify further drilling for possible big tonnage low grade gold exploration target x x x x

x x x x we wish to expound on the October 17, 1991 explanation previously made by the region in that indeed, the PPA of Marcopper lies outside of Magat Forest Reserve as per plotting recently provided by NAMRIA per its June 2, 1995 indorsement of the maps to this Office x x x x[12]

In other words, the circumstance that the area covered by petitioner's PPA is outside the Magat River Forest Reservation has been adequately established by the following evidence: (a) confirmation as early as 31 May 1989 by the Forest Engineering Section of Tuguegarao, Cagayan; (b) the 8 July 1991 Memorandum Report of Regional Technical Director Punsal Jr.; and, (c) plotting provided by the National Mapping and Resources Information Authority per its 2 June 1995 indorsement of the maps to the office of the Regional Executive Director. Petitioner contests the exclusion of the area subject of its PPA within the Magat River Forest Reservation based merely on the alleged "typographical error committed by somebody in the Engineering Section of the DENR." Aside from the fact that the allegation does not have anything to support it, the aforementioned documents which the Regional Executive Directors relied upon in denying the PPA had already settled the issue.

Furthermore, respondent MAB even fortified the bases for the rejection of petitioner's PPA. As plotted by the Lands Management Sector of DENR Region 2 contained in the sketch plan of 11 November 1996 and as shown in the Land Use map of the Community Environment and Natural Resources Office of Dupax, Nueva Vizcaya, the area covered under the PPA is indeed outside any government reservation.

At any rate, we have gone over the pleadings of the parties, i.e., Petition, Comment, Reply, as well as their respective Memoranda, and we find no justifiable basis to merit a reversal and grant the Petition.

WHEREFORE, the petition is DENIED. The Decision of 11 June 1998 of respondent Mines Adjudication Board which affirmed the rejection of petitioner Marcopper Mining Corporation's Prospecting Permit Application and gave due course to the Mineral Production Sharing Agreement of respondents Alberto G. Bumolo, Benito Cachili, Conchita Bumolo, Patricio Dumlao, Jacinto Aliguyon, Alfonso Maddawat, Toledo Gillao, Jose Tigo and Peter Cabiggat Bumolo subject to compliance with RA 7942 and DAO No. 96-40, and its Resolution of 13 May 1999 which denied reconsideration, are AFFIRMED. Costs against petitioner.

SO ORDERED.

Mendoza, Buena, and De Leon, Jr., JJ., concur.

Quisumbing, J., no part. Related to counsel of a party.

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- [1]Proc. 573 reserves as permanent forests certain parcels of land of the public domain in Nueva Ecija, Nueva Vizcaya, Bontoc, Cagayan, Bulacan, Pangasinan, Quezon, Laguna, Camarines Sur and Iloilo.
- [2]Proc. 1498 reserves for settlement purpose under the administration and supervision of the DAR certain parcels of land of the public domain situated in the municipalities of Dupax, Nueva Vizcaya and Maddela, Quirino.
- [3]Annex "I," Petition; Rollo, p. 82.
- [4]Annex "N," Petition; id., pp. 94-97.
- [5]Annex "K," Petition; id., pp. 89-90.
- [6]Philippine Mining Act of 1995.
- [7]A DENR Adm. Order.
- [8]Decision issued by Chairman Victor O. Ramos and Members Virgilio Q. Marcelo and Horacio C. Ramos; Annex "A," Petition; Rollo, p. 51.
- [9]Resolution issued by Chairman Antonio H. Cerilles and Members Pedro C. Caleon and Horacio C. Ramos; Annex "B," Petition; id., p. 59.
- [10]Petition filed pursuant to Sec. 79, R.A. 7942 providing that a petition for review by certiorari and (sic) question of law may be filed by the aggrieved party with the Supreme Court within thirty (30) days from receipt of the order or decision of the Board.
- [11]Katipunan Ng Mga Manggagawa Sa Daungan (KAMADA) v. Calleja, G. R. No. 104692, 5 September 1997, 278 SCRA 531.
- [12]Rollo, pp. 94-96.

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