

LEONORA P. CALANZA, EVA M. AMOREN, GENE P. ROÑO, SANNY C. CALANZA, GREGORIO C. YNCIERTO II AND ANGEL M. PUYO, PETITIONERS, VS. PAPER INDUSTRIES CORPORATION OF THE PHILIPPINES (P...

G.R. No. 146622. April 24, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This Petition for Review under Rule 45 of the Rules of Court seeks to reverse and set aside the 19 June 2000 Decision[1] of the Court of Appeals in CA-G.R. CV No. 45234 which annulled the Decision of the Regional Trial Court (RTC) of Banganga, Davao Oriental, Branch 7, granting the Complaint for Injunction filed by petitioners.

On 23 August 1991, petitioners Leonora P. Calanza, Eva M. Amoren, Gene P. Roño, Sanny C. Calanza, Gregorio C. Yncierto II, and Angel M. Puyo filed with the Mines and Geo-Sciences Development Service, Department of Environment and Natural Resources (DENR), Region XI, of Davao City, applications for small-scale mining permits for the purpose of extracting gold. In their applications, petitioners stated that the area where they will conduct mining operations was in the Municipality of Boston, Davao Oriental.[2]

On 22 December 1992, the governor of Davao Oriental, Rosalind Y. Lopez, approved the applications and issued six small-scale mining permits in favor of the petitioners.[3] Since the mining areas applied for by petitioners were within the respondent Paper Industries Corporation of the Philippines' (PICOP) logging concession area under Timber License Agreements (TLAs) that covered large tracts of forest lands of the Provinces of Surigao del Sur, Agusan del Sur, Davao Oriental and Davao del Norte, petitioners negotiated with PICOP for their entry into the mining site at Barangay Catihan, Municipality of Boston, Davao Oriental. PICOP, through its officer Roberto A. Dormendo, refused petitioners' entry into the mining area on the grounds that it has the exclusive right of occupation, possession and control over the area being a logging concessionaire thereof; that petitioners' mining permits are defective since they were issued by the governor of Davao Oriental when in fact the mining area is situated in Barangay Pagtilaan, Municipality of Lingig, Surigao del Sur; and that mining permits cannot be issued over areas covered by forest rights such as TLAs or forest reservations unless their status as such is withdrawn by competent authority.

On 7 May 1993, petitioners filed a Complaint for Injunction with Prayer for the Issuance of a Restraining Order, Damages and Attorney's Fees against PICOP and its officers before the RTC of Banganga, Davao Oriental, praying that PICOP or its agent be enjoined from preventing and prohibiting them from entering into the mining site.

PICOP countered that the RTC of Davao Oriental has no jurisdiction over the complaint of petitioners since the disputed area is situated in the Province of Surigao del Sur. PICOP also claimed that the issuance of petitioners' permits were void ab initio since the same violated Section 5 of Republic Act No. 7076, otherwise known as the People's Small-Scale Mining Act of 1991, which allegedly prohibits the issuance of mining permits over areas

covered by forest rights such as TLAs or forest reservations unless their status as such is withdrawn by the competent authority.

In the Pre-Trial Order dated 4 October 1993, the following are identified as the issues:

- Whether the mining areas claimed by petitioners are found within the territories of Davao Oriental or Surigao del Sur.
- Whether the small-scale mining permits of petitioners are valid.
- Whether PICOP has the right and authority to deny petitioners access to, possession of and the authority to conduct mining activities within the disputed areas.[4]

In a decision dated 26 November 1993, the RTC ruled in favor of the petitioners. The RTC opined that Barangay Pagtilaan (as claimed by PICOP) or Catihan (as claimed by petitioners) is within the territory of the Province of Davao Oriental. Citing Section 465, paragraph (b), Sub-paragraph (3)iv of Republic Act No. 7160 or the Local Government Code of 1991 which states to the effect that the governor has the power to issue licenses and permits, the RTC ruled that the governor is vested with the power to issue the small-scale mining permits to the petitioners. The decretal portion of the RTC decision provides:

IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered:

- Declaring that all the [petitioners] have the rights under the laws to extract and remove gold ore from their permit area as particularly described by its technical descriptions found in their respective permits subject to the terms and conditions stipulated therein;
- Finding that [respondents] have no rights to deny [petitioners] entry into the mining permit areas and hereby enjoining [respondents], their agents, representatives, their attorneys, the SCAA or any persons acting in their behalf to allow petitioners/permittees, their agents, representatives and vehicles to enter, travel into the mining site areas of plaintiffs without any restrictions, preventions and/or harassment of the purpose of conducting mining activities thereat;
- Further restraining and enjoining the respondents, their attorneys, agents and/or representatives, the SCAA or its officers and such other persons acting for and in their behalf from preventing, prohibiting or harassing the [petitioners], their agents or authorized representatives, their vehicles, tools and other mining paraphernalia's from entering, traveling into the mining site using and passing through the most accessible concession roads of [respondents], such as but not limited to Road 5M and spurs within PICOP's TLA 43 areas.

There being no evidentiary proof of actual and compensatory damages, and in the absence of fraud or evident bad faith on the part of defendants, especially PICOP, which apparently is exercising its right to litigate, this Court makes no finding as to actual, compensatory and moral damages nor attorney's fees.[5]

Respondent PICOP appealed the RTC decision.

In a Decision dated 19 June 2000, the Court of Appeals reversed the RTC Decision and dismissed the complaint of respondents.

In setting aside the RTC Decision, the Court of Appeals stated that the RTC erred in passing upon the issue of the boundary dispute between the provinces of Davao Oriental and Surigao del Sur since the resolution of the boundary dispute primarily resides with the sangguniang panlalawigans of the two provinces and the RTC has only appellate jurisdiction over the case, pursuant to the Local Government Code of 1991. The Court of Appeals also said that the governor has no power to issue small-scale mining permits since such authority under Section 9 of Republic Act No. 7076 is vested with the Provincial Mining Regulatory Board.

The disposition of the Court of Appeals reads:

WHEREFORE, premises considered, the appealed decision in Civil Case No. 489 is hereby REVERSED and SET ASIDE and a new one is hereby rendered dismissing the complaint filed by [petitioners].[6]

Petitioners filed a motion for reconsideration, which was denied by the Court of Appeals in its Order dated 10 November 2000.

Hence, the instant petition.

The petition is not meritorious.

There is boundary dispute when a portion or the whole of the territorial area of a Local Government Unit (LGU) is claimed by two or more LGUs.[7] In settling boundary disputes, Section 118 of the 1991 Local Government Code provides:

Sec. 118. Jurisdictional Responsibility for Settlement of Boundary Dispute. - Boundary disputes between and among local government units shall, as much as possible, be settled amicably. To this end:

(a) Boundary disputes involving two (2) or more barangays in the same city or municipality shall be referred for settlement to the sangguniang panlungsod or sangguniang bayan concerned.

(b) Boundary disputes involving two (2) or more municipalities within the same province shall be referred for settlement to the sangguniang panlalawigan concerned.

(c) Boundary disputes involving municipalities or component cities of different provinces shall be jointly referred for settlement to the sanggunians of the provinces concerned.

(d) Boundary disputes involving a component city or municipality on the one hand and a highly urbanized city on the other, or two (2) or more highly urbanized cities, shall be jointly referred for settlement to the respective sanggunians of the parties.

(e) In the event the sanggunian fails to effect an amicable settlement within sixty (60) days from the date the dispute was referred thereto, it shall issue a certification to that effect. Thereafter, the dispute shall be formally tried by the sanggunian concerned which shall decide the issue within sixty (60) days from the date of the certification referred to above.

Under paragraph (c) of Section 118, the settlement of a boundary dispute involving municipalities or component cities of different provinces shall be jointly referred for settlement to the respective sanggunians or the provincial boards of the different provinces involved. Section 119 of the Local Government Code gives a dissatisfied party an avenue to question the decision of the sanggunian to the RTC having jurisdiction over the area, viz:

Section 119. Appeal. - Within the time and manner prescribed by the Rules of Court, any party may elevate the decision of the sanggunian concerned to the proper Regional Trial Court having jurisdiction over the area in dispute x x x.

Article 17, Rule III of the Rules and Regulations Implementing The Local Government Code of 1991 outlines the procedures governing boundary disputes, which succinctly includes the filing of the proper petition, and in case of failure to amicably settle, a formal trial will be conducted and a decision will be rendered thereafter. An aggrieved party can appeal the decision of the sanggunian to the appropriate RTC. Said rules and regulations state:

Article 17. Procedures for Settling Boundary Disputes. - The following procedures shall govern the settlement of boundary disputes:

(a)

Filing of petition - The sanggunian concerned may initiate action by filing a petition, in the form of a resolution, with the sanggunian having jurisdiction over the dispute.

(b)

Contents of petition - The petition shall state the grounds, reasons or justifications therefore.

(c)

Documents attached to petition - The petition shall be accompanied by:

1.

Duly authenticated copy of the law or statute creating the LGU or any other document showing proof of creation of the LGU;

2.

Provincial, city, municipal, or barangay map, as the case may be, duly certified by the LMB.

3.

Technical description of the boundaries of the LGUs concerned;

4.

Written certification of the provincial, city, or municipal assessor, as the case may be, as to territorial jurisdiction over the disputed area according to records in custody;

5.

Written declarations or sworn statements of the people residing in the disputed area; and

6.

Such other documents or information as may be required by the sanggunian hearing the dispute.

(d)

Answer of adverse party - Upon receipt by the sanggunian concerned of the petition together with the required documents, the LGU or LGUs complained against shall be furnished copies thereof and shall be given fifteen (15) working days within which to file their answers.

(e)

Hearing - Within five (5) working days after receipt of the answer of the adverse party, the sanggunian shall hear the case and allow the parties concerned to present their respective evidences.

(f)

Joint hearing - When two or more sanggunians jointly hear a case, they may sit en banc or designate their respective representatives. Where representatives are designated, there shall be an equal number of representatives from each sanggunian. They shall elect from among themselves a presiding officer and a secretary. In case of disagreement, selection shall be by drawing lot.

(g)

Failure to settle - In the event the sanggunian fails to amicably settle the dispute within sixty (60) days from the date such dispute was referred thereto, it shall issue a certification to the effect and copies thereof shall be

furnished the parties concerned.

(h)

Decision - Within sixty (60) days from the date the certification was issued, the dispute shall be formally tried and decided by the sanggunian concerned. Copies of the decision shall, within fifteen (15) days from the promulgation thereof, be furnished the parties concerned, DILG, local assessor, COMELEC, NSO, and other NGAs concerned.

(i)

Appeal - Within the time and manner prescribed by the Rules of Court, any party may elevate the decision of the sanggunian concerned to the proper Regional Trial Court having jurisdiction over the dispute by filing therewith the appropriate pleading, stating among others, the nature of the dispute, the decision of the sanggunian concerned and the reasons for appealing therefrom. The Regional Trial Court shall decide the case within one (1) year from the filing thereof. Decisions on boundary disputes promulgated jointly by two (2) or more sangguniang panlalawigans shall be heard by the Regional Trial Court of the province which first took cognizance of the dispute.

The records of the case reveal that the instant case was initiated by petitioners against respondents predicated on the latter's refusal to allow the former entry into the disputed mining areas. This is not a case where the sangguniang panlalawigans of Davao Oriental and Surigao del Sur jointly rendered a decision resolving the boundary dispute of the two provinces and the same decision was elevated to the RTC. Clearly, the RTC cannot exercise appellate jurisdiction over the case since there was no petition that was filed and decided by the sangguniang panlalawigans of Davao Oriental and Surigao del Sur. Neither can the RTC assume original jurisdiction over the boundary dispute since the Local Government Code allocates such power to the sangguniang panlalawigans of Davao Oriental and Surigao del Sur. Since the RTC has no original jurisdiction on the boundary dispute between Davao Oriental and Surigao del Sur, its decision is a total nullity. We have repeatedly ruled that a judgment rendered by a court without jurisdiction is null and void and may be attacked anytime.[8] It creates no rights and produces no effect. In fact it remains a basic fact in law that the choice of the proper forum is crucial as the decision of a court or tribunal without jurisdiction is a total nullity. A void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect.[9]

Moreover, petitioners' small-scale mining permits are legally questionable. Under Presidential Decree No. 1899, applications of small-scale miners are processed with the Director of the Mines and Geo-Sciences Bureau. Pursuant to Republic Act No. 7076, which took effect[10] on 18 July 1991, approval of the applications for mining permits and for mining contracts are vested in the Provincial/City Mining Regulatory Board. Composed of the DENR representative, a representative from the small-scale mining sector, a representative from the big-scale mining industry and a representative from an environmental group, this body is tasked to approve small-scale mining permits and contracts.

In the case under consideration, petitioners filed their small-scale mining permits on 23 August 1991, making them bound by the procedures provided for under the applicable and prevailing statute, Republic Act No. 7076. Instead of processing and obtaining their permits from the Provincial Mining Regulatory Board, petitioners were able to get the same from the governor of Davao del Norte. Considering that the governor is without legal authority to issue said mining permits, the same permits are null and void.

Based on the discussions above, the Court of Appeals is correct in finding that petitioners have no right to enter into and to conduct mining operations within the disputed lands under the infirmed small-scale mining permits.

In fine, this Court defers to the findings of the Court of Appeals, there being no cogent reason to veer away from such findings.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated 19 June 2000 and its Resolution dated 10 November 2000 reversing the 26 November 1993 Decision of the Regional Trial Court of Banganga, Davao Oriental, Branch 7, are hereby AFFIRMED. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Peralta, JJ., concur.

[1] Penned by Associate Justice Martin S. Villarama, Jr. with Associate Justices Salome A. Montoya and Romeo J. Callejo, Sr. (now a retired Supreme Court Justice), concurring. Rollo, pp. 41-49.

[2] CA rollo, p. 72.

[3] Records, pp. 11-22.

[4] Id. at 158-161.

[5] CA rollo, pp. 44-46.

[6] Rollo, p. 49.

[7] Article 15, Rule III, Rules and Regulations Implementing The Local Government Code of 1991.

[8] *Leonor v. Court of Appeals*, 326 Phil. 74, 88 (1996).

[9] *Arevalo v. Benedicto*, 157 Phil. 175, 181 (1974) cited in *Hilado v. Chavez*, G.R. No. 134742, 22 September 2004, 438 SCRA 623, 649.

[10] Republic Act No. 7076 was published in *Malaya* on 3 July 1991.

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