

**PYRO COPPER MINING CORPORATION, PETITIONER, VS. MINES
ADJUDICATION BOARD-DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES, MINES AND GEO-SCIENCES BUREAU
DIRECTOR HORACIO C. RAMOS...**

G.R. No. 179674. July 28, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on Certiorari, under Rule 45 of the 1997 Revised Rules of Civil Procedure, seeking to reverse the Resolutions dated 23 February 2007[1] and 6 September 2007[2] of the Court of Appeals in CA-G.R. SP No. 97663. The appellate court, in its assailed Resolution dated 23 February 2007, dismissed the Petition for Review, under Rule 43 of the 1997 Revised Rules of Civil Procedure, of herein petitioner Pyro Copper Mining Corporation, for failure of petitioner to attach pertinent and relevant documents thereto.[3] The appellate court, in its other assailed Resolution dated 6 September 2007, denied the Motion for Reconsideration of petitioner for lack of merit and for failure to show the authority of Atty. Vicente R. Acsay (Atty. Acsay), one of the members of the Board of Directors of petitioner, to sign the Verification and Certification against Forum Shopping accompanying the Petition.

Petitioner additionally prays for the setting aside or reversal of the Decision[4] dated 28 December 2006 of the Department of Environment and Natural Resources (DENR)-Mines Adjudication Board (MAB) in MAB Case No. 0147-06, which affirmed the Orders dated 14 September 2005[5] and 27 December 2005[6] of the DENR-Panel of Arbitrators, Region 1, San Fernando City, La Union (Panel of Arbitrators), in Case No. 2005-00012-I, dismissing the Verified Protest/Opposition of petitioner to the Application for Exploration Permit of private respondent Montague Resources Philippines Corporation. Ultimately, petitioner seeks the denial of the mining claim and the revocation/cancellation of the Exploration Permit, EXPA No. 21 dated 12 September 2003, of private respondent.

The factual antecedents of this case are as follows:

Petitioner is a corporation duly organized and existing under Philippine laws engaged in the business of mining. On 31 March 2000, petitioner's Application for Mineral Production Sharing Agreement (MPSA), identified as APSA-SF-000089, with the Mines and Geo-Sciences Bureau (MGB) of the DENR, Regional Office No. 1, San Fernando City in La Union, for the exploration, development and commercial utilization of certain pyrite ore and other mineral deposits in a 4,360.71-hectare land in Dasol, Pangasinan, was approved and MPSA No. 153-2000-1 was issued in its favor.

Private respondent is also a corporation organized and existing under the laws of the Philippines and engaged in the business of mining. On 12 September 2003, private respondent filed an Application for Exploration Permit[7] with MGB covering the same properties covered by and during the subsistence of APSA-SF-000089 and MPSA No. 153-2000-1[8] of petitioner. In turn, petitioner filed a Verified Protest/Opposition to the Application for

Exploration Permit of the private respondent. It was allegedly filed with the Panel of Arbitrators[9] on 30 August 2005 and was received by the latter on 5 September 2005. The case was docketed as Case No. 2005-00012-I.

Prior, however, to petitioner's filing of its Verified Protest/Opposition to the private respondent's Application for Exploration Permit, petitioner's MPSA No. 153-2000-1 was cancelled per DENR Memorandum Order (DMO) No. 2005-03[10] issued by the DENR Secretary Michael Defensor on 1 February 2005. Petitioner moved for the reconsideration of DMO No. 2005-03, which the DENR Secretary denied in its Decision[11] dated 14 June 2005.[12]

On 1 September 2005,[13] the MGB issued EP No. 05-001 to private respondent.

In an Order dated 14 September 2005, the Panel of Arbitrators dismissed *motu proprio* the Verified Protest/Opposition of petitioner for the following reasons: (1) the instant pleading was filed out of time; (2) in view of the issuance of EP No. 05-001 to private respondent, the Verified Protest/Opposition of petitioner to the Application for Exploration Permit of private respondent was rendered moot and academic; (3) the Panel of Arbitrators had no authority/jurisdiction to cancel, deny and/or revoke EP No. 05-001 of private respondent, the same being lodged with the MGB, the issuing authority; and (4) petitioner failed to include a certification against forum shopping.[14] Petitioner moved for its reconsideration, but the Panel of Arbitrators denied the same in its Order dated 27 December 2005.[15]

Petitioner elevated by appeal to the MAB the Orders dated 14 September 2005 and 27 December 2005 of the Panel of Arbitrators, docketed as MAB Case No. 0147-06.

Subsequently, in a Decision[16] dated 28 December 2006 in MAB Case No. 0147-06, the MAB dismissed the appeal of petitioner, on the following grounds: (a) the Verified Protest/Opposition of petitioner to the Application for Exploration Permit of private respondent was filed beyond the reglementary period; and (b) the Verified Protest/Opposition of petitioner did not include a certification against forum shopping.[17]

Petitioner filed with the Court of Appeals a Petition for Review under Rule 43 of the 1997 Revised Rules of Civil Procedure, which was docketed as CA-G.R. SP No. 97663.

In a Resolution dated 23 February 2007, the Court of Appeals dismissed the said Petition, pursuant to Section 7, Rule 43, of the 1997 Revised Rules of Civil Procedure,[18] for failure of petitioner to attach thereto some pertinent and relevant documents required under Section 6 of the same Rule.[19]

Petitioner filed a Motion for Reconsideration of the 23 February 2007 Resolution, together with the required documents. Private respondent, however, in its Comment,[20] still prayed for the dismissal of the Petition in CA-G.R. SP No. 97663 for failure of petitioner to submit Atty. Acsay's authority to sign the Verification and Certification against Forum Shopping.

Petitioner was given an opportunity to submit Atty. Acsay's written authority, but failed to do so. Consequently, the Court of Appeals issued a Resolution dated 6 September 2007, denying for lack of merit the Petition in CA-G.R. SP No. 97663.

Hence, this Petition.

The petitioner raises the following issues for this Court's Resolution:

- WHETHER OR NOT THE [COURT OF APPEALS] DEPARTED FROM THE RULES AND ESTABLISHED JURISPRUDENCE WHEN IT DISMISSED THE PETITION [A QUO] DESPITE FAITHFUL COMPLIANCE WITH THE RULES ON DISCLOSURE AS INCORPORATED IN THE VERIFICATION AND CERTIFICATION PORTION OF THE MOTION FOR EXTENSION [OF] TIME

AND PETITION A QUO.

- WHETHER OR NOT THE [COURT OF APPEALS] DEPARTED FROM THE RULES AND ESTABLISHED JURISPRUDENCE WHEN IT DISMISSED THE PETITION A QUO DESPITE THE ATTACHMENT AND SUBMISSION OF THE REQUISITE AUTHORITY TO MAKE AND SIGN VERIFICATIONS AND SUBSEQUENTLY REQUIRED PLEADINGS.

- WHETHER OR NOT THE [COURT OF APPEALS] REFUSED TO ADJUDICATE THE PETITION A QUO DESPITE THE ATTENDANCE OF A CLEARLY EXCEPTIONAL CHARACTER AND PARAMOUNT PUBLIC INTEREST INVOLVED AS WELL AS THE NECESSITY FOR A RULING TO PUT AN END TO UNSCRUPULOUS ISSUANCE OF MINING CLAIMS.

- WHETHER OR NOT PUBLIC RESPONDENTS IN THE DENR COMMITTED SERIOUS ERROR AND GRAVE ABUSE OF DISCRETION IN DECLARING THAT: (A) THE VERIFIED PROTEST/OPPOSITION WAS FILED OUT OF TIME; (B) THE ISSUANCE OF THE EXPLORATION PERMIT IN FAVOR OF [PRIVATE RESPONDENT] ON [1 SEPTEMBER 2005] AND THE UNILATERAL CANCELLATION OF THE MPSA BY THE DENR-SECRETARY RENDERED THE VERIFIED PROTEST/OPPOSITION MOOT AND ACADEMIC; (C) THE [PANEL OF ARBITRATORS] HAVE NO JURISDICTION TO CANCEL, DENY AND/OR REVOKE THE EXPLORATION PERMIT OF [PRIVATE RESPONDENT]; AND (D) THE VERIFIED PROTEST/OPPOSITION DOES NOT CONTAIN A CERTIFICATION AGAINST FORUM SHOPPING.[21]

To resolve the foregoing issues, the Court must address the more specific issues below:

- Whether the subsequently attached Minutes of the Special Meeting dated 22 January 2007 of the Board of Directors of petitioner sufficiently granted Atty. Acsay authority to sign the Verification and Certification against Forum Shopping which accompanied the Petition in CA-G.R. SP No. 97663.

- Whether the Verified Protest/Opposition of petitioner to the Application for Exploration Permit of private respondent was filed out of time.

- Whether the Verified Protest/Opposition of petitioner filed before the MAB needs to be accompanied by a Certification against Forum Shopping.

- Whether the issuance by the DENR Secretary of DMO No. 2005-03 on 1 February 2005 which cancelled MPSA No. 153-2000-1 of petitioner and the issuance by MGB of EP No. 05-001 in favor of private respondent on 1 September 2005 rendered the Verified Protest/Opposition of petitioner moot and academic.

- Whether the Panel of Arbitrators has jurisdiction to cancel, deny and/or revoke EP No. 05-001 issued by MGB to private respondent.

The Court finds no merit in the present Petition.

I

Petitioner maintains that there are special circumstances and basic considerations in support of Atty. Acsay's authority to execute and sign the Verification and Certification against Forum Shopping which accompanied its Petition in CA-G.R. SP No. 97663. Firstly, Atty. Acsay is an incorporator, stockholder, member of the board of directors, corporate secretary, and legal counsel of petitioner. Secondly, he was the authorized representative of petitioner in the signing of MPSA No. 153-2000-1. Therefore, Atty. Acsay is the best legally suitable person to make the required sworn disclosures in the Verification and Certification against Forum Shopping in the Petition of petitioner in CA-G.R. SP No. 97663.

Petitioner also contends that the Minutes of the Meeting held on 22 January 2007 by the board of directors of

petitioner, bestowing upon Atty. Acsay the authority to make and sign the Verification for the Motion for Extension of Time to File Petition for Review under Rule 43 of the 1997 Revised Rules of Civil Procedure, must be construed in its entirety. According to the Minutes, Atty. Acsay was granted authority by the board to sign even verifications, which may be required in subsequent pleadings filed by petitioner. The reference in the Minutes to the Motion for Extension of Time to File Petition for Review is not meant to be restrictive or qualifying, as to exclude other pleadings.

With the foregoing, petitioner firmly argues that it has substantially complied with the requirements for the execution of the Verification and Certification against Forum Shopping, which accompanied its Petition in CA-G.R. SP No. 97663.

Section 6(d), Rule 43[22] in relation to Section 2, Rule 42[23] of the 1997 Revised Rules of Civil Procedure mandates that a petition for review shall contain a sworn certification against forum shopping, in which the petitioner shall attest that he has not commenced any other action involving the same issues in this Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before this Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five days therefrom.[24]

For failure to comply with this mandate, Section 7, Rule 43 of the 1997 Revised Rules of Civil Procedure provides:

SEC. 7. Effect of failure to comply with requirements. - The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

The requirement that petitioner should sign the Certification against Forum Shopping applies even to corporations, the Rules of Court making no distinction between natural and juridical persons.[25] A corporation, however, exercises its powers through its board of directors and/or its duly authorized officers and agents. Physical acts, like the signing of documents, can be performed only by natural persons duly authorized for the purpose by corporate by-laws or by a specific act of the board of directors.[26] The signatory, therefore, in the case of the corporation should be "a duly authorized director or officer of the corporation" who has knowledge of the matter being certified.[27]

If the petitioner is a corporation, a board resolution authorizing a corporate officer to execute the Certification against Forum Shopping is necessary. A certification not signed by a duly authorized person renders the petition subject to dismissal.[28]

To recall, the Court of Appeals initially dismissed, in its Resolution dated 23 February 2007, the Petition for Review in CA-G.R. SP No. 97663, for failure of petitioner to submit pertinent and relevant documents required under Section 6, Rule 43 of the 1997 Revised Rules of Civil Procedure. The petitioner filed a Motion for Reconsideration, attaching thereto the required documents, except the proof of Atty. Acsay's authority to sign the Verification and Certification against Forum Shopping for the Petition. Instead of immediately dismissing the Motion for Reconsideration of petitioner, however, the Court of Appeals, in its Resolution dated 8 June 2007, gave petitioner five days from receipt thereof to submit such proof. The petitioner then submitted the Minutes of the Special Meeting held on 22 January 2007 by its board of directors, adopting a Resolution to the following effect:

RESOLVED, that [Atty. Acsay], Director and Corporate Secretary of [herein petitioner] be, as he hereby is, authorized to make and sign the verification of the pleading filed by [petitioner] entitled "Motion for Extension of Time to File Petition for Review under Rule 43 of the Rules of Court.[29]

It can be gleaned from the afore-quoted Resolution of the board of directors of petitioner that the authority granted to Atty. Acsay was to make and sign the pleading entitled "Motion for Extension of Time to File Petition for Review under Rule 43 of the Rules of Court," but not the Petition for Review itself. The wordings of the board Resolution are so explicit that they cannot be interpreted otherwise. There is nothing to justify the argument of petitioner that the authority to sign granted to Atty. Acsay by the said board Resolution extended to all other pleadings subsequent to the Motion for Extension.

Other than the Minutes of the Special Meeting held on 22 January 2007 by the board of directors of petitioner, which the Court deemed unsatisfactory, no other proof of Atty. Acsay's purported authority to sign the Verification and Certification against Forum Shopping for the Petition for Review in CA-G.R. SP No. 97663 was presented. Absent proof of such authority, then the reasonable conclusion is that there is actually none. Given that a certification not signed by a duly authorized person renders the petition subject to dismissal,[30] the Court of Appeals did not err in finally dismissing in its Resolution dated 6 September 2007 the Petition of petitioner in CA-G.R. SP No. 97663.

Although the Court has previously relaxed the rules on verification and certification against forum shopping in some instances,[31] it cannot do so here.

From the very beginning, petitioner failed to attach to its Petition for Review before the Court of Appeals the relevant documents required by Section 6, Rule 43 of the 1997 Revised Rules of Procedure. Petitioner had two opportunities to comply with the requisites, i.e., when it filed its Motion for Reconsideration of the 23 February 2007 Resolution of the Court of Appeals and when it submitted its compliance with the 8 June 2007 Resolution of the appellate court; yet, petitioner still failed to do so. Petitioner never offered any satisfactory explanation for its stubborn non-compliance with or disregard for the rules of procedure.

It is true that a litigation is not a game of technicalities, and that the rules of procedure should not be strictly enforced at the cost of substantial justice. However, it does not mean that the Rules of Court may be ignored at will and at random, to the prejudice of the orderly presentation and assessment of the issues and their just resolution. It must be emphasized that procedural rules should not be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Like all rules, they are required to be followed except only for the most persuasive of reasons.[32]

II

Even assuming arguendo that Atty. Acsay did have the authority to sign the Verification and Certification against Forum Shopping for the Petition for Review of petitioner in CA-G.R. SP No. 97663, and the Court of Appeals erred in dismissing said Petition, the Court still cannot grant the prayer of petitioner herein to reverse the actions undertaken by the DENR as regards the cancellation of its MPSA No. 153-2000-1 and the issuance of EP No. 05-001 to private respondent.

Petitioner insists that it filed its Verified Protest/Opposition to the Application for Exploration Permit of private respondent within the reglementary period. Based on the records of MGB, the Notice of Application for Exploration Permit of private respondent was actually posted from 14 July 2005 to 28 July 2005. Applying the 30-day reglementary period, the last date on which to file any adverse claim, protest or opposition to the said application was 27 August 2005, a Saturday. Since 29 August 2005, Monday, was declared a national holiday, the

next business day was 30 August 2005, Tuesday. This very well explains why the Verified Protest/Opposition of petitioner was filed on 30 August 2005. Petitioner further avows that it paid the required legal fees through postal money order. The issuance of the official receipt only after the filing, through registered mail, of its Verified Protest/Opposition, does not erase the fact that the docket fees were paid to and received by the government.

Section 21 of DAO No. 96-40 mandates:

Section 21. Publication/Posting/Radio Announcement of an Exploration Permit Application. - x x x Any adverse claim, protest or opposition shall be filed directly, within thirty (30) calendar days from the last date of publication/posting/radio announcement, with the concerned Regional Office or through any concerned PENRO or CENRO for filing in the concerned Regional Office for purposes of its resolution by the Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and regulations. x x x.

Considering that the Rules on Pleadings, Practice and Procedure before the Panel of Arbitrators and MAB are bereft of any provision regarding the computation of time and the manner of filing, the Court may refer to Section 1, Rule 22 and Section 3, Rule 13 of the 1997 Revised Rules of Civil Procedure,[33] which state:

Section 1. How to compute time. - In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day. (Emphasis supplied.)

Section 3. Manner of filing. - The filing of pleadings, appearances, motions, notices, orders, judgments and all other papers shall be made by presenting the original copies thereof, plainly indicated as such, personally to the clerk of court or by sending them by registered mail. In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second case, the date of the mailing of motions, pleadings, or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment or deposit in court. The envelope shall be attached to the record of the case. (Emphasis supplied.)

In the present case, notices of the Application for Exploration Permit of private respondent were published in newspapers,[34] announced on the radio,[35] and posted in public places. The posting was done the latest, so we reckon the last possible date petitioner could have validly filed its Verified Petition/Opposition with the Panel of Arbitrators therefrom.

The notices of the Application for Exploration Permit of private respondent were posted on the bulletin boards of the Office of the Municipal Mayor of Dasol, Pangasinan on 16 to 31 March 2005; Office of the Municipal Mayor of Mabini, Pangasinan on 16 to 31 March 2005; Office of the Pangasinan Provincial Environment and Natural Resources on 17 March 2005 to 2 April 2005; Office of the DENR Provincial Environment and Natural Resources-Pangasinan on 15 March 2005 to 6 April 2005; Office of the DENR Community Environment and Natural Resources-Alaminos City on 17 March 2005 to 5 April 2005; Offices of the Punong Barangays of Malimpin, San Pedro, Barlo, San Vicente, and Alilao on 16 to 31 March 2005; and MGB on 14 to 28 July 2005.[36]

Since the notice of the Application for Exploration Permit of private respondent was last posted on 28 July 2005, the 30-day reglementary period for filing any adverse claim/protest/opposition thereto ended on 27 August 2005. As petitioner explained, however, 27 August 2005 was a Saturday; and 29 August 2005, Monday, was declared a national holiday,[37] so the next working day was 30 August 2005, Tuesday. Petitioner did send its Verified Protest/Opposition, through registered mail, on 30 August 2005, as evidenced by the Affidavit of Service[38] of even date and Registry Receipts No. 10181; No. 10182; No. 10183; and No. 10184.[39] Nevertheless, the Court

still could not consider the Verified Protest/Opposition of petitioner as having been filed within the reglementary period.

Section 21 of DAO No. 96-40, fixing the 30-day reglementary period for filing any adverse claim/protest/opposition to an application for exploration permit, must be read in relation to Section 204 of DAO No. 96-40, which reads:

Section 204. Substantial Requirements for Adverse Claims, Protest and Oppositions. No adverse claim, protest or opposition involving mining rights shall be accepted for filing unless verified and accompanied by the prescribed docket fee and proof of services to the respondent(s), either personally or by registered mail: Provided, That the requirement for the payment of docket fees shall not be imposed on pauper litigants[.] (Emphasis supplied.)

and Section 7, Rule III of the Rules on Pleadings, Practice and Procedure before the Panel of Arbitrators and MAB, which states that:

Section 7. Form and Contents of Adverse Claims, Protest or Opposition. No adverse claim, petition, protest or opposition involving mining rights shall be accepted for filing unless verified and accompanied by the prescribed docket fee and proof of services to the respondent(s), either personally or by registered mail: Provided, That the requirement for the payment of docket fees shall not be imposed on pauper litigants. (Emphasis supplied.)

Section 204 of DAO No. 96-40 and Section 7, Rule III of the Rules on Pleadings, Practice and Procedure before the Panel of Arbitrators and MAB explicitly require that the adverse claim/protest/opposition be accompanied by the payment of the prescribed docket fee for the same to be accepted for filing.

Upon a careful examination of the records of this case, it appears that the docket fee was paid only on 6 September 2005, as evidenced by Official Receipt (O.R.) No. 7478283 B.[40] Although petitioner avers that it paid the docket fee through postal money order - in which case, the date of mailing would be deemed the date of payment - such averment is unsubstantiated. The Court finds no evidence to prove that petitioner actually sent the purported postal money order for the payment of the docket fee. Petitioner submits the following evidence to prove payment of the docket fee: (a) a Prudential Bank Check in the amount of P5,020.00 dated 1 September 2005;[41] (b) O.R. No. 7478283 B dated 6 September 2005 issued by MGB Region I, San Fernando City; and (c) several registry return receipts.[42] But these pieces of evidence do not establish at all that the docket fee was paid by postal money order; or indicate the postal money order number and the date said postal money order was sent. Without any evidence to prove otherwise, the Court presumes that the docket fee was paid on the date the receipt for the same was issued, i.e., 6 September 2005.

Based on the foregoing, the Verified Protest/Opposition of petitioner to the Application for Exploration Permit of respondent is deemed filed with the Panel of Arbitrators only upon payment of the prescribed docket fee on 6 September 2005, clearly beyond the reglementary period, which ended on 30 August 2005.

III

The Panel of Arbitrators denied the Verified Protest/Opposition of petitioner in Case No. 2005-00012-I for another procedural lapse, the lack of a certification against forum shopping.

Petitioner argues that a Verified Protest/Opposition does not require a certification against forum shopping. According to it, Section 204 of DAO No. 96-40 identifies the substantial requirements of a mining adverse claim/protest/opposition, and a certification against forum shopping is not among them; the Panel of Arbitrators has no power and authority to impose additional requirements for the filing and service of pleadings; the Panel of

Arbitrators also does not have the authority to promulgate rules and regulations involving the practice, pleadings, litigation and disposition of cases before it, for the same only belongs to the MAB, pursuant to Section 207 of DAO No. 96-40.

The arguments of petitioner have no merit.

Petitioner filed a Verified Protest/Opposition before the Panel of Arbitrators to oppose the Application for Exploration Permit filed by private respondent with the MGB. The Verified Protest/Opposition of petitioner constitutes an initiatory pleading before the Panel of Arbitrators, for which a certification against forum shopping may be required. Truly, DAO No. 96-40 is bereft of any provision requiring that a certification against forum shopping be attached to the adverse claim/protest/opposition. However, Section 4, Rule 1 of the Rules on Pleading, Practice and Procedure before the Panel of Arbitrators and the MAB allows the application of the pertinent provisions of the Rules of Court by analogy or in a suppletory manner, in the interest of expeditious justice and whenever practical and convenient; and, according to Section 5, Rule 7 of the Revised Rules of Court:

SEC. 5. Certification against forum shopping. - The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

Hence, the requirement by the Panel of Arbitrators and the MAB that a certification against forum shopping be attached to initiatory pleadings filed before them, to ascertain that no similar actions have been filed before other courts, tribunals, or quasi-judicial bodies, is not arbitrary or baseless. The lack of such a certification is a ground for the dismissal of the Verified Protest/Opposition of petitioner.

IV

The Panel of Arbitrators dismissed the Verified Protest/Opposition of petitioner for a third reason: that the same has become moot and academic, given that the DENR Secretary already issued DMO No. 2005-03 on 1 February 2005 canceling MPSA No. 153-2000-1 and MGB issued EP No. 05-001 to private respondent on 1 September 2005.

However, petitioner asserts that MPSA No. 153-2000-1 has not been finally cancelled or revoked, considering the pendency of the legal remedies it availed itself of for DMO No. 2005-03. The issuance of DMO No. 2005-03 by the DENR Secretary, and of EP No. 05-001 by MGB pursuant thereto, should not render the Verified Protest/Opposition of petitioner moot and academic.

The position of petitioner is untenable.

It must be stressed that the cancellation of MPSA No. 153-2000-1 of petitioner by the DENR Secretary in DMO No. 2005-03 is already the subject of separate proceedings. The Court cannot touch upon it in the Petition at bar.

Also worth stressing is that petitioner filed a Verified Protest/Opposition to the Application for Exploration Permit of private respondent. When the application was approved and the exploration permit issued to private respondent, petitioner had nothing more to protest/oppose. More importantly, with the issuance by MGB of EP No. 05-001 to private respondent, the remedy of petitioner is to seek the cancellation thereof, over which, as subsequently discussed herein, the Panel of Arbitrators would have no jurisdiction. The Panel of Arbitrators cannot simply consider or convert the Verified Protest/Opposition of petitioner to the Application for Exploration Permit of private respondent as a petition for the cancellation of EP No. 05-001. Since the Panel of Arbitrators can no longer grant petitioner any actual substantial relief by reason of the foregoing circumstances, then the Verified Protest/Opposition of petitioner was appropriately dismissed for being moot and academic.

V

Finally, petitioner posits that Section 77 of Republic Act No. 7942 and Sections 202 to 203 of its Implementing Rules vest the Panel of Arbitrators with the jurisdiction to entertain and accept any claim, protest or opposition filed directly with its office. In the discharge thereof, the office and function bestowed upon the Panel of Arbitrators include the power and authority to deny clearances, exclude exploration permits, and not to accept or entertain the same.

The Court disagrees.

Section 77 of Republic Act No. 7942 establishes the jurisdiction of the Panel of Arbitrators, thus:

Sec. 77. Panel of Arbitrators. - x x x. Within thirty (30) working days, after the submission of the case by the parties for decision, the panel shall have exclusive and original jurisdiction to hear and decide on the following:

- a. Disputes involving rights to mining areas;
- b. Disputes involving mineral agreements or permits;
- c. Disputes involving surface owners, occupants and claimholders/concessionaires; and
- d. Disputes pending before the Bureau and the Department at the date of the effectivity of this Act. (Emphasis supplied.)

In *Olympic Mines and Development Corporation v. Platinum Group Metals Corporation*[43] citing *Celestial Nickel Mining Exploration Corporation v. Macroasia Corporation*,[44] this Court made the following pronouncements as regards paragraphs (a) and (b) of Section 77 of Republic Act No. 7942:

In *Celestial Nickel Mining Exploration Corporation v. Macroasia Corporation, et al.*, this Court speaking through Justice Velasco, specified the kind of disputes that fall under Section 77(a) of the Mining Act:

The phrase "disputes involving rights to mining areas" refers to any adverse claim, protest, or opposition to an application for a mineral agreement.

x x x x

[T]he power of the POA to resolve any adverse claim, opposition, or protest relative to mining rights under Section 77 (a) of RA 7942 is confined only to adverse claims, conflicts, and oppositions relating to applications for the grant of mineral rights. x x x. Clearly, POA's jurisdiction over "disputes involving rights to mining areas" has nothing to do with the cancellation of existing mineral agreements. (Emphases supplied.)

X X X X

Parenthetically, the "permit" referred to in Section 77(b) of the Mining Act pertains to exploration permit, quarry permit, and other mining permits recognized in Chapters IV, VIII, and IX of the Mining Act. An operating agreement, not being among those listed, cannot be considered as a "mineral permit" under Section 77 (b). (Emphases supplied.)

It is clear from the ruling of the Court in Olympic Mines and Celestial Nickel Mining that the Panel of Arbitrators only has jurisdiction over adverse claims, conflicts, and oppositions relating to applications for the grant of mineral rights, but not over cancellation of mineral rights already granted and existing.

As to who has jurisdiction to cancel an existing exploration permit, Section 28 of DAO NO. 96-40 explicitly provides:

Section 28. Cancellation of an Exploration Permit. - The Director/concerned Regional Director may cancel the Exploration Permit for failure of the Permittee to comply with any of the requirements and for violation(s) of the terms and conditions under which the Permit is issued. For renewed Exploration Permits, the Secretary upon the recommendation of the Director shall cause the cancellation of the same.

According to Section 5 of DAO No. 96-40, "Director" means the Director of the MGB Central Office, while "Regional Director" means the Regional Director of any MGB Regional Office. As the authority to issue an Exploration Permit is vested in the MGB, then the same necessarily includes the corollary power to revoke, withdraw or cancel the same.[45] Indisputably, the authority to deny, revoke, or cancel EP No. 05-001 of private respondent is already lodged with the MGB, and not with the Panel of Arbitrators.

WHEREFORE, premises considered, the instant Petition for Review on Certiorari of petitioner Pyro Copper Mining Corporation is hereby DENIED. The Resolutions dated 23 February 2007 and 6 September 2007 of the Court of Appeals in CA-G.R. SP No. 97663 are hereby AFFIRMED. Costs against the petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Velasco, Jr., Nachura, and Peralta, JJ., concur.

[1] Penned by Associate Justice Aurora Santiago-Lagman with Associate Justices Bienvenido L. Reyes and Apolinario D. Bruselas, Jr., concurring; rollo, pp. 53-54.

[2] Id. at 59-60.

[3] The pertinent and relevant documents which the petitioner failed to attached in its Petition before the Court of Appeals are the following: (1) Verified Protest/Opposition mentioned in the Order dated 14 September 2005 of the DENR-Panel of Arbitrators; (2) Motion for Reconsideration and Opposition to Motion for Reconsideration; and (3) Memorandum, all mentioned in the Order dated 27 December 2005 of the DENR Panel of Arbitrators.

[4] Signed by Chairman Angelo T. Reyes, Armi Jane Roa-Borje and Michelle Angelica D. Go; rollo, pp. 170-173.

[5] Signed by Chairman Atty. Claro E. Ramolete, Jr., Atty. Joseph T.D. Estrella and Engr. Renato Rimando; id. at 163-166.

[6] Id. at 167-168.

[7] Id. at 149-151.

[8] The private respondent initiated an action before the Panel of Arbitrators for the annulment and/or cancellation of APSA-SF-000089 and MPSA No. 153-2000-1 of petitioner. The case was docketed as RPA Case No. 2004-000010-1. In a Decision dated 6 August 2004, the Panel of Arbitrators cancelled/revoked APSA-SF-000089 and MPSA No. 153-2000-1 of petitioner for the failure of the latter to comply with the mandatory requirements provided under the law for over five (5) years after its issuance in 2000. At the same time, the Panel of Arbitrators allowed the processing of the Application for Exploration Permit of private respondent. (See rollo, pp. 443-457.) The petitioner appealed the 6 August 2004 Decision of the Panel of Arbitrators to the MAB, which docketed it as MAB Case No. 0142-04.

The MAB rendered its Decision in MAB Case No. 0142-04 on 19 May 2005, ruling that the DENR Secretary, and not the Panel of Arbitrators, had the power to cancel MPSA No. 153-2000-1. However, since DMO No. 2005-03, issued by the DENR Secretary, already canceled MPSA No. 153-2000-1, the 6 August 2004 Decision of the Panel of Arbitrators had become moot and academic. (See rollo, pp. 222-230.) The Motion for Partial Reconsideration of the petitioner was also denied in a Resolution dated 16 January 2006. Petitioner no longer questioned the latest action of the MAB. Resultantly, the MAB Decision dated 19 May 2005 and Resolution dated 16 January 2006 became final and executory, as evidenced by an Order of Finality dated 7 December 2006. (See rollo, pp. 699-700.)

[9] Sec. 77. Panel of Arbitrators. - x x x. Within thirty (30) working days, after the submission of the case by the parties for decision, the panel shall have exclusive and original jurisdiction to hear and decide on the following:

- a. Disputes involving rights to mining areas;
- b. Disputes involving mineral agreements or permits;
- c. Disputes involving surface owners, occupants and claimholders/concessionaires; and
- d. Disputes pending before the Bureau and the Department at the date of the effectivity of this Act. (Emphasis supplied.)

[10] Rollo, pp. 547-565.

[11] Id. at 252-260.

[12] Petitioner filed a Petition for Review with the Office of the President (OP) challenging the 14 June 2005 Decision of the DENR Secretary. The case was docketed as O.P. Case No. 05-G-232. On 23 November 2005, the OP issued an Order (see rollo, pp. 378-379) dismissing O.P. Case No. 05-G-232 for failure of petitioner to remit P500.00 as appeal fee. The Motion for Reconsideration of the said Order was denied by the OP in its Decision dated 8 March 2006. (See rollo, pp. 701-708.) Additionally, the OP found that the tenement covered by MPSA No. 153-2000-1 was non-performing, and it was not registered with the MGB-Regional Office as required under Section 43, Chapter VI of DENR Administrative Order No. 96-40 (DAO No. 96-40).

The petitioner appealed the aforesaid 8 March 2006 Decision of the OP to the Court of Appeals via Petition for Review under Rule 43 of the 1997 Revised Rules of Civil Procedure, docketed as CA-G.R. SP No. 93857. The said appeal is still pending before the appellate court.

[13] Rollo, pp. 154-157.

[14] Id. at 165-166.

[15] Id. at 167-168.

[16] Id. at 170-173.

[17] Id. at 172-173.

[18] SEC. 7. Effect of failure to comply with requirements. - The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

[19] SEC. 6. Contents of the petition. - The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed therein.

[20] Rollo, pp. 579-593.

[21] Id. at 792-793.

[22] SEC. 6. Contents of the petition. - x x x (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein.

[23] SEC 2. Form and contents. - The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

[24] Pascual and Santos, Inc. v. The Members of Tramo Wakas Neighborhood Association, Inc., G.R. No. 144880, 17 November 2004, 442 SCRA 438, 445-446.

[25] Gonzales v. Climax Mining Ltd., G.R. No. 161957, 28 February 2005, 452 SCRA 607, 619.

[26] LDP Marketing, Inc. v. Monter, G.R. No. 159653, 25 January 2006, 480 SCRA 137, 142.

[27] Gonzales v. Climax Mining Ltd., supra note 25.

[28] Id.

[29] Rollo, p. 110.

[30] Gonzales v. Climax Mining Ltd., supra note 25.

[31] Some instances wherein this Court has relaxed the rule on verification and certification of non-forum shopping, to wit: (1) In HLC Construction and Development Corporation v. Emily Homes Subdivision Homeowners Association [458 Phil. 392, 399 (2003)], it was held that the signature of only one of the petitioners in the certification against forum shopping substantially complied with rules because all the petitioners shared a

common interest and invoked a common cause of action or defense; (2) In *Cavile v. Heirs of Cavile* [448 Phil. 302, 311 (2003)], because the lone petitioner who executed the certification of non-forum shopping was a relative and co-owner of the other petitioners with whom he shared a common interest; (3) In *Ateneo De Naga University v. Manalo* [G.R. No. 160455, 9 May 2005, 458 SCRA 325-336-337] this Court acknowledged that it had relaxed, under justifiable circumstances, the rule requiring the submission of these certifications and had applied the rule of substantial compliance under justifiable circumstances with respect to the contents of the certification. It also conceded that if this Court had allowed the belated filing of the certification against forum shopping for compelling reasons in previous rulings, with more reason should it sanction the timely submission of such certification though the proof of the signatory's authority submitted thereafter; (4) In *Sy Chin v. Court of Appeals* [399 Phil. 442 (2000)], the Court also upheld substantial justice and ruled that the failure of the parties to sign the certification may be overlooked, as the parties' case was meritorious; and (5) In *Pascual & Santos, Inc v. The Members of Tramo Wakas Neighborhood Association, Inc.* [G.R. No. 144880, 17 November 2004, 442 SCRA 438] the subsequent submission of proof of authority to act on behalf of a petitioner corporation justified the relaxation of the Rules for the purpose of allowing the petition to be given due course.

[32] *Teoville Homeowners Association, Inc. v. Ferreira*, G.R. No. 140086, 8 June 2005, 459 SCRA 459, 471.

[33] Section 4, Rule I of the Rules on Pleadings, Practice and Procedure before the Panel of Arbitrators and MAB reads:

Section 4. Nature of the Proceedings. Subject to the basic requirements of due process, proceeding's before the Panel of Arbitrators and the Mines Adjudication Board shall be summary in nature. The technical rules on evidence obtaining in courts of law shall not be binding upon the same. in the absence of any applicable provision in these Rules and in order to effectuate the objectives of the Mining Act, the pertinent provisions of the Rules of Court may, in the interest of expeditious justice and only whenever practical and convenient, be applied by analogy or in a suppletory manner. Representation of a party in mining cases by legal counsel shall be optional. (Emphases supplied.)

[34] *The Daily Tribune* (rollo, p. 309) on 21 March 2008 and *The Regional Diaryo* (id. at 310) on 28 March 2005. Reckoned from 28 March 2005, the 30-day period ended on 27 April 2005.

[35] Announced in DWLU-FM once a day between 1:00 p.m. and 2:00 p.m. from Monday to Sunday on 15-31 March 2005, as evidenced by a Certificate of Performance [id. at 311] dated 1 April 2005. Reckoned from 31 March 2005, the 30-day period ended on 30 April 2005.

[36] As stated in the 28 December 2006 Decision of MAB in MAB Case No. 0147-06, rollo, p. 172. The Panel of Arbitrators' Certification dated 30 August 2005 evidencing the aforesaid dates of posting of notices of the private respondent's Application for Exploration Permit was not attached to the records of this case. However, the last date of posting, which was 14-28 July 2005, was never controverted by the petitioner. In fact, the petitioner itself admitted that the actual posting was made on 14-28 July 2005; thus, the last date of posting was 28 July 2005.

[37] By virtue of Proclamation No. 901.

[38] MAB Records, Vol. I, pp. 75-76.

[39] Rollo, p. 220.

[40] MAB Records, Vol. III, pp. 17-18.

[41] Id. at 18.

[42] Id. at 19-22.

[43] G.R. Nos. 178188, 180674, 181141 and 183527, 8 May 2009.

[44] G.R. Nos. 169080, 172936, 176226 and 176319, December 19, 2007, 541 SCRA 166.

[45] Acebedo Optical Company, Inc. v. Court of Appeals, 385 Phil. 956, 978 (2000).

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