

CORAZON LIWAT-MOYA, AS SUBSTITUTED BY HER SURVIVING HEIRS, NAMELY: MARIA THERESA MOYA SIOSON, ROSEMARIE MOYA KITHCART AND MARIA CORAZON MOYA GARCIA, PETITIONER, VS. EXECUTIVE SE...

G.R. No. 191249. March 14, 2018

Ponente: MARTIRES, J.

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MARTIRES, J.:

This is a petition for review on certiorari, seeking to reverse and set aside the 30 September 2009 Decision[1] and the 8 February 2010 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 104063, which upheld the 1 June 2007 Decision[3] of the Office of the President (OP) in O.P. Case No. 07-A-034 entitled "In Re: Application for Mineral Production Sharing Agreement of Ms. Corazon Liwat-Moya Denominated as AMPSA No. SMR-013-96."

THE FACTS

On 22 May 1991, petitioner Corazon Liwat-Moya (petitioner) filed an application for Mineral Production Sharing Agreement (MPSA) with the Mines and Geosciences Bureau (MGB). The application was denominated as AMPSA No. SMR-013-96, covering 650 hectares of land located at Loreto, Surigao del Norte, within Parcel III of the Surigao Mineral Reservation (SMR).[4]

Pursuant to her application, petitioner undertook the required publications. She also alleged that she had substantially complied with the mandatory documentary requirements of her application for MPSA.[5]

On 15 February 1993 and 19 February 1997, the MGB sent notice-letters to petitioner, requiring her to submit additional requirements for her application. The MGB did not receive any response.[6]

On 3 March 1995, Republic Act (R.A.) No. 7942, or the Philippine Mining Act of 1995, was enacted.

Pursuant to the preferential rights given by R.A. No. 7942 to mining claims and applications when the law took effect, the Department of Environment and Natural Resources (DENR) issued DENR Memorandum Order (DMO) 91-01 providing the "Guidelines in the Implementation of the Mandatory September 15, 1997 Deadline for the Filing of Mineral Agreement Applications by Holders of Valid and Existing Mining Claims and Lease/Quarry Applications and for Other Purposes." Under Section 13 thereof, all holders of pending applications for MPSA which still lack mandatory requirements shall submit on or before 15 September 1997, a status report on all such requirements and a letter of intent undertaking to fully comply with all mandatory requirements within forty-five (45) calendar days, or until 30 October 1997.

On 24 November 1998, the MGB sent a letter to petitioner notifying her of her failure to submit all the mandatory requirements under DMO No. 97-07'. There was no response from petitioner.[7] On 19 October 1999, the MGB sent another letter, but the same was returned to the sender with the notation that "addressee moved[,] no

forwarding address."[8]

Consequently, on 26 February 2001, the MGB, through then-director Floracio C. Ramos, issued an order[9] denying petitioner's application for MPSA on the ground of noncompliance with pertinent laws, rules and regulations despite due notice, particularly on petitioner's noncompliance with the set deadlines under DMO No. 97-07.

On 25 June 2001, respondent Rapid City Realty & Development Corporation (RCKDC) filed with the MGB three (3) exploration permit applications (EPA) which were consolidated into one application denominated as EPA-000058-XIII. The area covered by petitioner's application for MPSA is included in RCRDC's EPA.[10] On 7 January 2004, the MGB issued an area clearance certifying that the area covered by RCRDC's EPA was not in conflict with any valid and existing mining tenements.[11]

On 21 December 2004, petitioner filed a motion for reconsideration of the MGB's 26 February 2001 order, alleging that there was improper service of the letters-notice and the order in violation of DMO No. 99-34.[12]

On 7 January 2005 and 14 January 2005, RCRDC's EPA was duly published in The Manila Times and The Surigao Times. It was also aired over DXRZ-A, a local radio station in Surigao City, and posted in required locations, as mandated by existing rules and regulations.[13]

On 19 July 2005, the Assistant Secretary and Concurrent Director of the MGB, Jeremias L. Dolino, issued an order denying petitioner's motion for reconsideration for lack of merit. Petitioner thereafter appealed to the DENR Secretary on 16 August 2005.[14]

On 23 June 2005, the Panel of Arbitrators of the MGB issued a certification that as of said date, no adverse claim, protest or opposition was filed against RCRDC relative to the latter's EPA.[15]

On 8 August 2005, petitioner filed a protest against RCRDC's application with the MGB Panel of Arbitrators, which she subsequently amended on 22 November 2005.[16]

On 25 May 2006, RCRDC conditionally assigned its rights and interests over EPA-000058-XIII to Century Peak Corporation (CPC) through a Deed of Conditional Assignment.[17]

On 13 June 2006, the DENR Secretary rendered a decision[18] which reversed and set aside the 16 July 2005 order of the MGB Director. In said decision, the DENR Secretary indicated that petitioner's assertions "teem with convincing validity" and consequently ordered the reinstatement of her application for MPSA. The DENR Secretary also directed the MGB to set a schedule for compliance with the mandatory requirements upon petitioner's receipt of a copy of the decision.

On 28 June 2006, RCRDC filed with the DENR Secretary a Motion for Leave to Intervene with Motion for Reconsideration of the decision.

On 18 December 2006, the Panel of Arbitrators of the MGB dismissed petitioner's motion pending adverse claim/opposition against RCRDC for being moot and academic, in view of the DENR Secretary's decision.[19]

On 6 January 2007, the DENR Secretary issued an order[20] denying RCRDC's motion, holding that the issues raised in the motion "could be properly ventilated with the Panel of Arbitrators who has original and exclusive jurisdiction over the issues raised, and this Office is only of appellate jurisdiction."

Aggrieved, RCRDC filed an appeal with the OP on 18 January 2007.

The Ruling of the Office of the President

On 1 July 2007, the OP, through Executive Secretary Eduardo R. Ermita, issued a decision ordering that the 6 January 2007 decision of the DENR Secretary be vacated and reversed. It ruled that RCRDC is entitled to intervene in the case because it has a substantial right to protect its EPA, which covers the areas previously assigned to petitioner. It also held that the DENR Secretary erred in reinstating petitioner's cancelled application for MPSA because records show her negligence relative to her application which is thus barred by laches.

On 3 July 2007, petitioner filed a motion for reconsideration of the OP decision, but it was denied on 21 May 2008.[21] Thereafter, petitioner filed a petition for review under Rule 43 with the CA, assailing this decision.

The Ruling of the Court of Appeals

On 30 September 2009, the CA issued a decision denying the petition for lack of merit. The CA ruled that RCRDC had the right to intervene before the DENR Secretary, which right continues until the case is finally decided because intervention is allowed at any time before rendition of judgment and, in certain cases, even on appeal. It also opined that petitioner's application for MPSA ipso facto expired when she did not take any step to comply with the pertinent provisions of DMO No. 97-07; and that the subsequent letters-notice sent by the MGB after the deadlines, i.e., the 24 November 1998 and the 19 October 1999 letters, served no purpose because the deadlines set under DMO 97-07 were inextendible.

On 21 October 2009, petitioner filed her motion for reconsideration, which was denied by the CA in its 8 February 2010 resolution.

Hence, this petition.

ISSUES

Petitioner now comes to this Court seeking to set aside the decisions of the CA on the following grounds:

- CONTRARY TO THE RULING OF THE HONORABLE COURT OF APPEALS, THE PANEL OF ARBITRATORS, AS CORRECTLY HELD BY THE DENR SECRETARY, HAS ORIGINAL AND EXCLUSIVE JURISDICTION OVER THE PRIVATE RESPONDENTS' INTERVENTION AS EXPRESSLY MANDATED BY R.A. NO. 7942 OR THE PHILIPPINE MINING ACT OF 1995. HENCE, THE PROPER FORUM FOR THE PRIVATE RESPONDENTS' INTERVENTION WAS THE PANEL OF ARBITRATORS AND NOT THE OFFICE OF THE PRESIDENT; AND
- THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE OP TO RULE ON PETITIONER'S EXPLORATION PERMIT APPLICATION WHICH WAS NOT AN ISSUE IN THIS CASE; THE HONORABLE SECRETARY OF THE DENR CORRECTLY REINSTATED THE AMPSA NO. SMR-013-96 OF THE PETITIONER IN HIS ORDER DATED 13 JUNE 2006 RULING THAT THE LATTER'S ASSERTIONS TEEM WITH CONVINCING VALIDITY.

The core issue in the instant case is whether or not petitioner's MPSA application was properly denied.

THE COURT'S RULING

It is the policy of our mining laws to promote national growth through the grant of supervised exploration and development of mineral resources to qualified persons, necessitating the complete and prompt compliance with requirements.

Presidential Decree (P.D.) No. 463, or the Mineral Resources Development Decree of 1974, was the operative law at the time petitioner filed her application for MPSA. It underscored the importance of mineral production to the growth of national economy and the need to encourage qualified persons to undertake the exploration and

development of mineral resources, viz:

WHEREAS, mineral production is a major support of the national economy, and therefore the intensified discovery, exploration, development and wise utilization of the country's mineral resources are urgently needed for national development;

WHEREAS, the existence of large undeveloped mineral areas and the proliferation of small mining claims deter modern development of the country's mineral resources and urgently require well-planned exploration, development and systematic exploitation of mineral lands to accelerate production and to bolster the national economy;

WHEREAS, effective and continuous mining operations require considerable outlays of capital and resources, and make it imperative that persons possessing the financial resources and technical skills for modern exploratory and development techniques be encouraged to undertake the exploration, development and exploitation of our mineral resources;

WHEREAS, the foregoing objectives cannot be achieved within the shortest possible time without removing the deficiencies and limitations of existing laws and improving the same in order to provide for a modernized administration and disposition of mineral lands and to promote and encourage the development and exploitation thereof. (emphasis and underlining supplied)

R.A. No. 7942, the present law on mining, adopts a similar policy, to wit:

Section 2. Declaration of Policy. — All mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State. It shall be the responsibility of the State to promote their rational exploration, development, utilization and conservation through the combined efforts of government and the private sector in order to enhance national growth in a way that effectively safeguards the environment and protects the rights of affected communities. (emphasis and underlining supplied)

R.A. No. 7942 defines the persons qualified to undertake mining operations, to wit:

Section 3. Definition of Terms. —

x x x x

(aq) "Qualified person" means any citizen of the Philippines with capacity to contract, or a corporation, partnership, association, or cooperative organized or authorized for the purpose of engaging in mining, with technical and financial capability to undertake mineral resources development and duly registered in accordance with law at least sixty per centum (60%) of the capital of which is owned by citizens of the Philippines: Provided, That a legally organized foreign-owned corporation shall be deemed a qualified person for purposes of granting an exploration permit, financial or technical assistance agreement or mineral processing permit, (emphasis and underlining supplied)

x x x x

Relative to mineral production sharing agreements under P.D. No. 463, Executive Order (E.O.) No. 279 also instructs that said agreements should incorporate the minimum terms and conditions enumerated therein.[22] Towards this end, DENR Administrative Order (DAO) No. 57, providing the guidelines on mineral production sharing agreements under E.O. No. 279, sets forth the minimum requirements that must be submitted by prospective proponents.[23]

These provisions bring to the fore the intent of the law to boost national economy by granting mineral exploration and development only to qualified persons who can competently and promptly undertake mining operations.

They underscore the need not only for complete but also prompt compliance with the specific requirements of the rules. Complete compliance is necessary to ensure that the MPSA applicant is a qualified person as defined under the law and has the requisite skills, financial resources, and technical ability to conduct mineral exploration and development consistent with state policies. Prompt compliance, on the other hand, ensures that non-moving applications are weeded out in order to give other qualified persons an opportunity to develop mining areas whose potential for mineral production might never be realized, to the detriment of our national economy.

Consistent with this intent, Section 113 of R.A. No. 7942 limits the period for entering into mineral agreements by a holder of mining claims and applications filed under P.D. No. 463 and still pending when the new law took effect, viz:

Section 113. Recognition of Valid and Existing Mining Claims and Lease/Quarry Application. — Holders of valid and existing mining claims, lease/quarry applications shall be given preferential rights to enter into any mode of mineral agreement with the government within two (2) years from the promulgation of the rules and regulations implementing this Act. (emphasis and underlining supplied)

DAO No. 96-40, or the Revised Implementing Rules and Regulations (IRR) of R.A. No. 7942, in compliance with the above mandate, sets a specific date for compliance and further provides that failure to exercise the preferential rights granted by the law within the stated period results in automatic abandonment of the pending application, viz:

Section 273. Recognition of Valid and Existing Mining Claims and Lease/Quarry Applications. —

Holders of valid and existing mining claims, lease/quarry applications shall be given preferential rights to enter into any mode of Mineral Agreement with the Government until September 14, 1997: Provided, That failure on the part of the holders of valid and subsisting mining claims, lease/quarry applications to exercise their preferential rights within the said period to enter into any mode of Mineral Agreements shall constitute automatic abandonment of the mining claims, quarry/lease applications and the area thereupon shall be declared open for mining application by other interested parties. (emphasis and underlining supplied)

In line with the above, DMO No. 97-07 was issued, providing for the guidelines in processing pending mining applications with insufficient compliance with requirements at the time R.A. No. 7942 took effect. Section 13 thereof specifies the requirements for the pending applications, viz:

Section 13. Status of Pending MPSA and FTAA Applications Filed Under DAO No. 57 and No. 63 with Insufficient Compliance with Mandatory Requirements Pursuant to the IRR.

All holders of pending MPSA and FTAA applications filed under DAO No. 57 and No. 63 with insufficient compliance with the mandatory requirements pursuant to the IRR shall submit on or before September 15, 1997, a Status Report on all such requirements specifically indicating those yet to be complied with and a Letter of Intent undertaking to complete compliance with all mandatory requirements within forty-five (45) calendar days, or until October 30, 1997; Provided, that failure of the concerned applicant to file said Status Report and Letter of Intent by September 15, 1997 or to submit all mandatory requirements by October 30, 1997 shall cause the denial of the pertinent MPSA/FTAA applications; Provided, further, that in the case of the mandatory Certificate of Satisfactory Environmental Management and Community Relations Record, the submission of the pertinent and duly accomplished application forms may be accepted in lieu thereof. (emphasis and underlining supplied)

Section 14 additionally provides that the deadlines are not subject to extension, viz:

Section 14. No Extension of Periods. —

The deadline set at September 15, 1997 pursuant to Section 4 hereof and all other periods prescribed herein

shall not be subject to extension. (emphasis and underlining supplied)

It is therefore clear that the preferential right given to applications still pending upon the effectivity of R.A. No. 7942 is subject to the following conditions: (1) that the applicant submits the status report, letter of intent, and all the lacking requirements as provided by DMO No. 97-07; and (2) that said compliance is performed within the deadlines set. The non-fulfilment of any of these conditions precludes the DENR Secretary, through the MGB, from even considering the grant of an MPSA to petitioner, for such grant contemplates that the applicant has completed the requirements and that an evaluation thereof shows his competence to undertake mineral production. Clearly, without the complete requirements, the MGB would have no basis for evaluation.

Petitioner's failure to submit all the documentary requirements within the deadline rendered her MPSA application ipso facto cancelled pursuant to DMO No. 97-07 in relation to R.A. No. 7942.

It is not disputed that petitioner filed her application for MPSA on 22 May 1991, under P.D. No. 463 and the rules then operative; that her compliance with the requirements was substantial^[24] rather than complete; that she was directed to submit additional requirements by the MGB through a letter-notice dated 15 February 1993, which was not heeded; that her application was still pending when R.A. No. 7942 took effect on 3 March 1995; that the MGB sent her another letter dated February 1997, which again went unheeded; that DMO No. 97-07 was thereafter issued on 27 August 1997 and published in The Manila Times a day after; and that petitioner failed to submit the requirements under DMO No. 97-07 within the deadline set therein.

The MGB order of denial noted that petitioner failed to file the status report, letter of intent, and all other requirements under DMO No. 97-07, even after letters-notice to her were sent through registered mail.^[25] Petitioner did not refute this. She merely posits that the service of the letters-notice was defective because the MGB did not comply with the three letters-notice rule in DMO No. 99-34.

Section 8 of DMO No. 99-34 provides that the MGB "shall adopt the Three Letters-Notice Policy in exacting compliance of mining applicants with all requirements to support mining applications. Thus, each letter-notice shall give the mining applicant fifteen (15) to thirty days upon receipt of the Letter-Notice to comply with the pertinent requirement: Provided, That an interval of no more than thirty (30) days between deadlines shall be observed in sending the Letters-Notice."

Petitioner contends that the 24 November 1998 and 19 October 1999 letters-notice of the MGB were sent after the expiration of the deadline under DMO No. 97-07 and were one (1) year apart, in violation of the provision.

Petitioner mistakenly appreciates the import of DMO No. 97-07 in relation to DAO No. 96-40 and R.A. No. 7942, as well as the relevance of the three notice-letters policy embodied in DMO No. 99-34.

Notably, the rules^[26] mandate that petitioner's failure to submit a status report, letter of intent, and the other requirements to complete her pending MPSA application within the prescribed period shall cause the automatic cancellation of her mining application.

In *Bonaventure Mining Corporation v. V.I.L. Mines, Inc.*,^[27] the Court found that a corporation, which filed a financial or technical assistance application (FTA A) prior to the enactment of R.A. No. 7942, filed its letter of intent only on 26 September 1997, or 11 days after the 15 September 1997 deadline prescribed in DMO No. 97-07 in case of relinquishment/divestment of areas in excess of the maximum contract area for FTAAAs. Accordingly, the Court held that noncompliance with DMO No. 97-07 on retention requirements caused the automatic cancellation of the FTAA. The Court ruled thus:

DMO 97-07 was promulgated precisely to set a specific date for all FTAA applicants within which to relinquish all areas in excess of the maximum prescribed by law. Accordingly, the deadline cannot be extended

or changed except by amending DMQ 97-07. OIC-Regional Director Reynulfo Juan had no authority to extend the deadline set by DMO 97-07. We agree with the ruling of the Court of Appeals:

The language of the memorandum order is plain, precise and unequivocal — the period cannot be extended. Beyond that, the pending FTAA applications could no longer be officially acted upon as they were deemed to have expired. DMO 97-07 could only be extended by another memorandum order or law specifically amending the deadline set forth therein. No government officer or employee can do so.

x x x x

It is Our considered view that the FTAA application of Greenwater ipso facto expired when it did not take any step to comply with the order. There was no need for any pronouncement or official action. If ever there would be any executive action, it would only be to certify that the application was already cancelled as OIC-Regional Director Reynulfo Juan did when, on January 23, 1998 (sic), it wrote Greenwater that its application over the excess areas was cancelled. No executive action can stretch the deadline beyond what was stated in the memorandum order, DMO 97-07.

OIC-Regional Director Reynulfo Juan violated DMO 97-07, when in his October 22, 1997 Letter, he gave Greenwater a period beyond the date of the deadline within which to submit the technical descriptions of the areas it wanted to relinquish. By giving Greenwater a period extending beyond October 30, 1997, he was in effect extending the deadline set forth in Section 13 of DMO 97-07. That he could not lawfully do.

He had no authority extending the deadline because the memorandum order which he was supposed to implement stated that the "period prescribed herein shall not be subject to extension." Beyond October 30, 1997 all FTAA applications which failed to comply with the memorandum order expired and were deemed cancelled by operation of law.[28] (emphasis and underlining supplied)

The instant case does not merely involve the delayed filing of the requirements under DMO No. 97-07, but the complete absence thereof. Thus, there is all the more reason to apply this Court's pronouncement in the above case.

Consequently, petitioner's application for MPSA is deemed to have been automatically denied when the deadline lapsed without her submission of the pertinent requirements.

The DENR Secretary exceeded his authority when he directed the MGB to set a schedule for petitioner's compliance with the lacking mandatory requirements, for in effect he extended the deadline, contrary to the express mandate of DMO No. 97-07.

It is thus clear that petitioner cannot invoke any defect in the service of the letters-notice or the order of denial, sent after the expiration of the deadline to support her position that the denial of her application was invalid. The following reasons further strengthen this position:

First, the rules expressly provide that her application shall be denied the moment she fails to comply with the requirements within the deadline. No executive action or pronouncement was even necessary because DMO No. 97-07 already provided the consequence for failure to meet the deadline.[29] The order of denial issued by the MGB was only confirmatory of the status, mandated by the law and rules.

Second, it is well-settled that duly published administrative rules and regulations which implement the law that they have been entrusted to enforce have the force and effect of that law and are just as binding as if they have been written into the statute. They enjoy the presumption of regularity and validity until finally declared otherwise by the courts.[30] Their publication serves as constructive notice to the general public.[31] It appears on record, undisputed, that DMO No. 97-07 was duly published in The Manila Times on 28 August 1997.[32] Thus, petitioner was presumed to have known that her compliance with certain requirements was mandated within a

specific deadline in order to retain her MPSA application.

Third, petitioner's reliance on the three letters-notice rule under DMO No. 99-34 is misplaced. Issued after the enactment of R.A. No. 7942, the rule is a mode of exacting compliance for applications filed under said law. It cannot apply to applications filed prior to the effectivity of R.A. No. 7942 because, as discussed, the law limited the compliance of applications filed before its effectivity within a specific period, i.e., two (2) years from the promulgation of rules and regulations implementing the law. Per DAO No. 96-40, clarified by DMO No. 97-07, said two-year period had expired on 15 September 1997 and 30 October 1997 with no extensions. Thus, at the time that DMO No. 99-34 was issued on 27 December 1999, it had already contemplated that applications filed under the previous law (1) were able to complete the requirements within the deadline or (2) were denied by operation of law due to noncompliance.

Even if DMO No. 97-07 did not specifically provide the sanction of denial for noncompliance with requirements within the deadline, the MGB is authorized to cancel mining applications for noncompliance with the laws and rules.

Section 9 of R.A. No. 7942 charges the MGB with the administration and disposition of mineral lands and mineral resources, viz:

Section 9. Authority of the Bureau. — The Bureau shall have direct charge in the administration and disposition of mineral lands and mineral resources and shall undertake geological, mining, metallurgical, chemical, and other researches as well as geological and mineral exploration surveys. The Director shall recommend to the Secretary the granting of mineral agreements to duly qualified persons and shall monitor the compliance by the contractor of the terms and conditions of the mineral agreements. The Bureau may confiscate surety, performance and guaranty bonds posted through an order to be promulgated by the Director. The Director may deputize, when necessary, any member or unit of the Philippine National Police, barangay, duly registered nongovernmental organization (NGO) or any qualified person to police all mining activities. (emphasis and underlining supplied)

Pursuant thereto, DAO No. 96-40 authorizes the MGB to deny or cancel mining applications that fail to comply with pertinent laws, rules, and regulations, to wit:

Section 7. Organization and Authority of the Bureau.

x x x x

The Bureau shall have the following authority, among others:

x x x x

e. To cancel or to recommend cancellation after due process, mining rights, mining applications and mining claims for non-compliance with pertinent laws, rules and regulations. (emphasis and underlining supplied)

It is clear from the foregoing that even if the rules did not provide a specific sanction in case of noncompliance with the requirements, the MGB could properly exercise its power to cancel mining applications for said reason.

It must be noted that from the time she filed her MPSA application in 1991 up to the time the MGB issued its order of denial on 2001, petitioner did not exert any effort to fully comply with the requirements under the rules, as she has even admitted that her compliance was merely substantial rather than complete.[33] This merited the denial of her application based on the above provision.

The MGB's denial of petitioner's application is thus valid and perforce stands. It was rendered pursuant to the agency's administrative powers, which has been defined as a function that is "concerned with the work of

applying policies and enforcing orders as determined by proper governmental organs." [34] This Court has previously ruled that an agency's grant or denial of applications, licenses, permits, and contracts are executive and administrative in nature. [35] Being purely administrative, it may not be interfered with by the courts unless the issuing authority has gone beyond its statutory authority, has exercised unconstitutional powers or has clearly acted arbitrarily and without regard to his duty or with grave abuse of discretion. [36] These do not obtain in the case at bar, because the MGB's denial was grounded on petitioner's noncompliance with the application for MPSA requirements within the deadline set by the rules, a fact that petitioner does not dispute.

Even equitable considerations cannot favor petitioner.

Petitioner cannot seek refuge under equitable considerations bearing in mind that there is no showing that she had endeavored to complete her application for more than 10 years from the time it was filed; that it was only after three (3) years from the issuance of the MGB's order of denial that she filed a motion for reconsideration thereto, and her allegation of improper service is baseless; and that the reasons she cites as basis for her lack of action (i.e., the challenge lodged against the constitutionality of E.O. No. 279 and subsequently R.A. No. 7942) are clearly insufficient to hold off action on her MPSA application because well-settled is the rule that laws are presumed constitutional unless finally declared otherwise by judicial interpretation. [37] It has even been held that the possible unconstitutionality of a statute does not by itself justify an injunction against its enforcement. [38]

Considering the foregoing, the areas previously covered by petitioner's application for MPSA became open for mining applications the moment the deadlines outlined in the rules lapsed without her submission of the documentary requirements. Consequently, when RCRDC filed its EPA on 25 June 2001, after the lapse of the deadline under DMO No. 97-07 and after the MGB had issued the order denying petitioner's application, the areas were already open and could validly be the subject of RCRDC's application. Thus, what is inequitable is to rule now that it is petitioner's application which should be given due course.

It is also for this reason that it is unnecessary to pass upon the issue on the propriety of RCRDC's resort to intervention, for it is clear that petitioner had already lost any right to her mining application by operation of law prior to the date that RCRDC filed its EPA, and the DENR Secretary had no authority to reinstate her application. Notably, in its five (5)-page decision, the DENR Secretary did not cite any legal or substantive basis for the order of reinstatement, other than a vague reference to the "convincing validity" of appellant's assertions, to wit:

The appellant's assertions teem with convincing validity that to deny her the chance to prove herself in this field of endeavor would not be in keeping with her constitutional rights to due process.

We now resolve the case substantively and sacrifice the matter of technicality in order to serve a higher objective, that is, to give Ms. Moya a fair chance to show how serious she is to this venture and help in her own little way boost the sagging economy. [39]

This constituted the whole of the DENR Secretary's discussion on the merits of petitioner's appeal. No explanation was made as to why her assertions were valid and why the rules should be disregarded in her case. As previously discussed, there is utterly no basis to disregard the clear mandate of DMO 97-07.

WHEREFORE, the petition is DENIED. The Decision dated 30 September 2009 and the Resolution dated 8 February 2010 of the Court of Appeals in CA-G.R. SP No. 104063 are AFFIRMED. Costs against petitioner.

SO ORDERED.

Velasco, Jr. (Chairperson), Bersamin, Leonen, and Gesmundo, JJ., concur.

- [1] Rollo, Vol. I, pp. 34-49; penned by Associate Justice Rosmari D. Carandang, and concurred in by Associate justices Arturo G. Tayag and Michael P. Elbinias.
- [2] Id. at 51-53.
- [3] Id. at 217-223.
- [4] Id. at 11.
- [5] Id. at 12-13.
- [6] Id. at 13.
- [7] Id. at 139-140.
- [8] Id. at 13.
- [9] Id. at 139-140.
- [10] Id. at 173-174.
- [11] Id. at 174; rollo, Vol. II, pp. 650-61.
- [12] Id. at 142.
- [13] Id. at 174.
- [14] Id. at 14 and 142-144.
- [15] Id. at 175.
- [16] Id. at 14.
- [17] Rollo, Vol. II, pp. 578 and 659-660.
- [18] Rollo, Vol. I, pp. 146-150.
- [19] Id. at 151-152.
- [20] Id. at 165-167.
- [21] Id. at 240-241.
- [22] E.O. No. 279, Section 2.
- [23] DAO No. 57, Article 3, series of 1989.
- [24] Rollo, Vol. I, pp. 12-13 and 24.
- [25] Id. at 139-140.
- [26] DMO No. 97-07, Section 13.
- [27] 584 Phil. 207 (2008).
- [28] Id. at 221-222.
- [29] Id. at 221.
- [30] *Spouses Dacudao v. Secretary Gonzales*, 701 Phil. 96, 110-111 (2013) citing ABAKADA Guro Party List

(formerly AASJS) v. Purisima, 584 Phil. 246 (2008).

[31] Tañada v. Tuvera, 230 Phil. 528, 536 (1986).

[32] Rollo, Vol. I, p. 139. See first paragraph, MGB Order of Denial dated 26 February 2001.

[33] Rollo, Vol. I, pp. 12-13.

[34] Basiana Mining Exploration Corp. v. Secretary of the DENR, G.R. No. 191705, 7 March 2016, 785 SCRA 527, 537.

[35] Republic of the Philippines, v. Express Telecommunication Co., Inc., 424 Phil. 373, 401 (2002) citing Lacuesta v. Herrera, 159 Phil. 133, 140-141 (1975).

[36] Id. at 402.

[37] Ermita v. Delorino, 666 Phil. 122, 134 (2011) citing Executive Secretary v. CA, 473 Phil. 27, 56 (2004).

[38] Id. at 135 citing Younger v. Harris, 401 U.S. 37 (1971).

[39] Rollo, Vol. I, p. 150.

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