

**ATLAS DEVELOPMENT AND ACCEPTANCE CORPORATION
(FORMERLY ATLAS CEMENT CORPORATION),
PETITIONER-APPELLANT, VS. HON. BENJAMIN M. GOZON,
SECRETARY OF AGRICULTURE AND NATURAL RESOURCE...**

G. R. No. 21588. July 31, 1967

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The Court of First Instance of Rizal, upon motion of respondent Pasig Mining Association, dismissed the petition of Atlas Development and Acceptance Corporation seeking to set aside the decisions of the Director of Mines and of the Secretary of Agriculture and Natural Resources concerning certain conflicting mineral claims in Antipolo, Rizal. Also dismissed was the cross-claim filed by respondent Carsec Mining Corporation. The matter is now before us on appeal by ATLAS and CARSEC from the order of dismissal.

It is alleged that ATLAS, long before filing the petition under consideration, discovered limestone deposits in Antipolo, Rizal. In conformity with the provisions of the Mining Act it located, staked, and recorded three mineral claims (denominated Atlas I, Atlas II and Atlas III) and filed the corresponding lease applications. Respondent CARSEC protested and alleged that said claims overlapped or were in conflict with claims of its own. Similar overlappings were alleged by PASIG and by one Manuel J.C. Reyes. The conflict was ventilated before the Director of Mines, who ruled as follows:

"IN VIEW OF THE FOREGOING, this Office believes and so holds that the pro-testant has the preferential right to lease the area in question covered by its "CARSEC I and IV" claims, and respondent Pasig Mining Association has the preferential right to lease the area in question covered by its 'PAMIAS I, II and III' placer claims."

Upon appeal to the Secretary of Agriculture and Natural Resources (who incidentally was himself the Director who decided the case in the first instance) the decision was affirmed. Disagreeing with the decision, ATLAS filed a petition in the Court of First Instance of Rizal (Civil Case No. 7508) against the Secretary of Agriculture and Natural Resources, the Director of Mines, Carsec Mining Association, Pasig Mining Association and Manuel J.C. Reyes.

After reciting the antecedent facts leading to the decision of the Secretary, the petition proceeds as follows:

"14. That the aforementioned Decision (Annex 'D') rendered by the Director of Mines and the Decision (Annex 'F') of Respondent Honorable Benjamin M. Gozon as Secretary of Agriculture and Natural Resources are both contrary to law and the evidence in that, among others, ?

(a) the Respondent Carsec Mining Association was not in existence at the time its mineral claims were allegedly discovered on December 31, 1956 and allegedly located on January 5-29, 1957 because even per its supposed Articles of Association, it was formed only on March 25, 1957;

(b) the Placer Mineral Claims PAMIAS I, PAMIAS II and PAMIAS III of Respondent Pasig Mining Association were not actually located in the field as strictly and specifically required by the Mining Law as amended, and that while the theory of said respondent was that said claims were merely relocations, even said relocations, assuming the same to be true, were defective and do not comply with the strict requirements of the provisions of the Mining Law as amended relating to discovery and location of Placer Mineral Claims;

Further, petitioner reserves the right to invoke other points of error committed by said respondents Director of Mines and Secretary of Agriculture and Natural Resources in their respective decisions;

15. That on the other hand, Placer Mineral Claims, "Atlas I", "Atlas II" and "Atlas III" of petitioner herein had all been actually located in the field strictly in accordance with the provisions of the Mining Law as amended, the lease applications therefor having been already been duly filed with the Bureau of Mines and the lease surveys therefor having been approved by the said Office;

16. That the Placer Mineral Claims, particularly Carsec II, Carsec III and Carsec V, of the Respondent Carsec Mining Association and the Placer Mineral Claims Pamias I, Pamias II and Pamias III of Respondent Pasig Mining Association not having been validly located in accordance with the Mining Law as amended, and considering that the Placer Mineral Claim "Manny" of Respondent Manuel J.C. Reyes having been allegedly located and registered much later already than the dates of registration of "Atlas I", "Atlas II" and "Atlas III" Placer Mineral Claims of petitioner herein, that, therefore, the petitioner herein, has the exclusive and prior right over the areas in question covered by its "Atlas I", "Atlas II" and "Atlas III" and has the preferential right to lease the same to the exclusion of any other party."

WHEREFORE, pursuant to the provisions of Section 61 of Commonwealth Act No. 137, as amended by Republic Act No. 746, otherwise known as the Mining Law, Petitioner respectfully prays:

1. That the decision (Annex 'D') of the Respondent Director of Mines and the decision (Annex 'F') of the Respondent Secretary of Agriculture and Natural Resources be set aside;
2. That the mineral claims of the respondents, namely, Carsec Mining Association, Pasig Mining Association and Manuel J.C. Reyes which overlapped and are in conflict with Placer Mineral Claims "Atlas I", "Atlas II" and "Atlas III" of the petitioner herein be declared null and void;
3. That judgment be rendered declaring that the petitioner herein has the exclusive and prior right over the areas in question covered by its "Atlas I", "Atlas II" and "Atlas III" and has the preferential right to lease the same to the exclusion of any other party;
4. Further, petitioner prays for such other relief as may be just and equitable under the premises."

CARSEC filed its answer to the petition with a cross-claim against PASIG, praying that the decision be set aside insofar as the mining areas awarded to the latter were concerned, and that said cross-claimant be given the preferential right to lease the same.

PASIG filed a motion to dismiss both the petition of ATLAS and the cross-claim of CARSEC on the ground of lack of cause of action. The lower court defined the issue posed by the said motion as follows: "whether this action should be considered as an independent ordinary civil action or that the petition should be considered either as a form of appeal from the decision of the Secretary of Agriculture and Natural Resources or a petition for certiorari. The court then went on to rule in effect that an independent civil action to resolve mining conflicts is not authorized by law; that such conflicts should be submitted to the Director of Mines for decision, with the right of appeal to the Secretary of Agriculture and Natural Resources; and that it is from the decision of either one of these officials that recourse may be had to the court either by appeal or by certiorari. Upon those premises the court granted the motion to dismiss in this wise:

"As this petition is neither an appeal because it has not complied with the formalities regarding appeal, or a petition for certiorari because it has failed to make all the necessary allegations as required by law, the Court finds that the petition has not made out a valid cause of action.

The cross-claim filed by the Carsec Mining Association lacks merit. As the main petition has failed to state a valid cause of action, it necessarily follows that the cross-claim has like-wise no reason to exist. In this connection, the position of cross-claimant Carsec Mining Co. is even more precarious because Carsec did not appeal the decision of the Secretary of Agriculture and Natural Resources, and consonant with the provisions of Section 61 of Commonwealth Act No. 137, as amended, the "decision or order shall be final and binding" upon him."

ATLAS maintains that the petition it filed in the court below is not, nor is it intended to be, an appeal or a petition for certiorari, but rather an ordinary civil action filed in a court of competent jurisdiction in accordance with section 61 of the Mining Act, which provides:

"SEC. 61. Conflicts and disputes arising out of mining locations shall be submitted to the Director of Mines for decision. Provided, that the decision or order of the Director of Mines may be appealed to the Secretary of Agriculture and Natural Resources within 30 days from the date of its receipt. In case anyone of the parties should disagree from the decision or order of the Director of Mines or of the Secretary of Agriculture and Natural Resources, the matter may be taken to a court of competent jurisdiction within thirty (30) days from the receipt of such decision or order; x x x "

It is at once evident that the law just quoted does not contemplate a special civil action in certiorari under Rule 65 of the Rules of Court, which is available only when a tribunal, board or officer exercising judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion and there is no appeal or other plain, speedy and adequate remedy in the ordinary course of law. Certiorari is ruled out by the fact that the matter may be taken to court directly from the decision of the Director of Mines, this notwithstanding the availability of appeal to the Secretary of Agriculture and Natural Resources. Nor would it be logical to say that after such appeal has been taken certiorari is the proper recourse from the decision of the Secretary, for the law speaks of only one and the same judicial remedy from the decision of either of the said officials; and if it is not certiorari as against the Director it cannot be certiorari as against the Department head.

The order of dismissal under review implies that, alternatively, Section 61 of the Mining Act contemplates an appeal, which according to the lower court must comply "with the formalities regarding appeal." That the Court of First Instance is a "court of competent jurisdiction" within the meaning of the said provision is conceded by the parties. Consequently the "formalities regarding appeal" mentioned in the order must have reference to those provided in Rule 40 of the Rules of Court, which deals with appeals from inferior courts to Courts of First Instance.

We are not convinced that this was the intention of the lawmaking body when it drafted Section 61 of the Mining Act. If it were, it should have been easy enough to so provide, in explicit and unmistakeable language, instead of saying merely that the matter may be taken to court. It is significant that Section 61 does speak of appeal, but (from the decision of the Director of Mines) to the Secretary of Agriculture and Natural Resources. Furthermore we see no cogent reason, considering the terms of the statute, to hold that the formalities prescribed in Rule 40 must be followed, such as perfection of the appeal within fifteen (15) days, posting of an appeal bond, reproduction of pleadings on appeal, vacation of the judgment appealed from and trial de novo in the Court of First Instance.[1]

On the other hand, we cannot subscribe to the view of appellant ATLAS that what is authorized by Section 61 is an ordinary civil action brought before the Court and triable by it without regard to the decisions of the

administrative officials. If that were so there would be no point in the mandatory character of the first sentence of the provision, that "conflicts and disputes arising out of mining locations shall be submitted to the Director of Mines for decision," nor in the subsequent portion which states that the case may be taken to court "in case anyone of the parties should disagree" with the decision or order of the Director, or of the Secretary on appeal. What is implicit in the law is not an ordinary original civil action, nor even a trial de novo of the case, but in reality a review of the administrative decision. This is our ruling in *Atlas Consolidated Mining and Development Corporation vs. Judge Jose M. Mendoza, et al.*, L-15809, August 30, 1961. Indeed the very allegations in the petition of ATLAS below show that it is meant to seek such review, by impleading respondent officials, pointing out the errors committed by them and asking that their respective decisions be set aside.

Section 61 does not provide the precise procedure to be followed, except to fix a period of thirty (30) days within which to take the matter to court; but we are satisfied that the petition filed in the Court below is sufficient for the purpose intended. Judicial review of the decision of an administrative official is of course subject to certain guideposts laid down in many decided cases. Thus, for instance, findings of fact in such decision should not be disturbed if supported by substantial evidence; but review is justified when there has been a denial of due process, or mistake of law, or fraud, collusion or arbitrary action in the administrative proceeding. Whether or not the findings of fact in the decisions sought to be reviewed in this case find support in the evidence is a question that must await the trial. We do hold, however, that as a petition for review, the action filed by ATLAS in the lower court is not open to attack on a motion to dismiss for lack of cause of action: it contains sufficient allegations to warrant judicial cognizance under Section 61 of the Mining Act.

With respect to the case of CARSEC, whose cross-claim against PASIG and Manuel J.C. Reyes was dismissed by the lower court, such dismissal should be maintained, because the decision of the Secretary of Agriculture and Natural Resources had already become final insofar as the subject of the cross-claim is concerned. In view of our conclusion that the proceeding initiated by ATLAS in the Court of First Instance is not an ordinary original civil action, it did not leave the door open for a cross-claim on the part of any of the respondents, which likewise seeks a review of the administrative decision, unless such cross-claim was filed within the thirty-day period prescribed by the statute.

Wherefore, the order appealed from is set aside and the case remanded for further proceedings with respect to the petition of Atlas Development and Acceptance Corporation; and affirmed with respect to the cross-claim of CARSEC Mining Association. No pronouncement as to costs.

Reyes, Bengzon, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, JJ., are on leave.

[1] This case may be distinguished from the case of *Secretary of Agriculture and Natural Resources, vs. Hora*, 97 Phil. 125, where it was held that an appeal from the decision of the Secretary under Section 4 of Republic Act No. 739 may be taken in the same manner as appeals are made in the courts of justice in ordinary civil actions. Act 739 refers to reconstruction or reconstitution of lost or destroyed mining records in the Bureau of Mines, and Section 4 specifically provides that the decision of the Secretary "may be taken to the court of competent jurisdiction as in ordinary civil cases within thirty (30) days from receipt of such decision . . ."

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