

**ALEJA SIBAYAN VDA. DE PINEDA, CLARA SIBAYAN VDA. DE GADDI,
AND MIGUELA SIBAYAN RAMENTO, PETITIONERS, VS. THE HON.
TEODORO PENA, MINISTER OF NATURAL RESOURCES; THE HON.
JUANITO F...**

G.R. No. 57665. July 02, 1990

Ponente: CORTES, J.

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CORTES, J.:

Assailed in this petition for certiorari and prohibition is that part of the decision of the Director of Mines, affirmed by the Minister of Natural Resources, which declared that petitioners have abandoned and lost their rights over their mining claim.

This case originated from a protest case for alleged overlapping or encroachment between two mining claims.

The relevant facts are as follows:

The "Ped" mining claim was located by Pedro Sibayan in January, 1932. After Sibayan's death, his heirs Miguela and Aleja Sibayan executed a Deed of Extra-Judicial Settlement wherein they waived their rights and interest over the "Ped" claim, among others, in favor of co-heir Feliza Sibayan. Feliza then transferred said claims to Sofia Reyes.

The "Ullmann" mining claim was located by Elvira Carmelo in February, 1932, and was subsequently transferred to Joseph Palengaoan.

In 1962, Reyes, Palengaoan and several others formed the KM. 21 Mining Association, later converted into the KM. 21 Exploration Corporation, to which the members conveyed their respective mining claims, including the "Ped" and "Ullmann" claims. Ultimately, the claims were assigned to the Baguio Gold Mining Company for operation.

During this time, an amended declaration of location for the "Ullmann" claim was registered.

On November 23, 1972, petitioners instituted Civil Case No. Q-17136 against Feliza Sibayan, Sofia Reyes, KM. 21 Mining Exploration Corporation, et. al., with the Court of First Instance, Quezon City, Branch IX. Petitioners claimed that the Deed of Extra-Judicial Settlement from which private respondents derived their ownership and possession over the "Ped" claim was maliciously falsified [Annex "I" to the Petition; Rollo, pp. 78-79] and prayed for annulment of all subsequent transfers involving the mining claims.

During the pre-trial of Civil Case No. Q-17136, the parties entered into an amicable settlement, agreeing that: (1) private respondents will return to petitioners the disputed mining claims, including the "Ped" claim; (2) petitioners will reimburse private respondents all expenses, like assessment taxes, incurred in the preservation of the claims; and (3) private respondents shall execute the necessary documents to reconvey the mining claims to petitioners [Annex "I" to the Petition, pp. 4-5; Rollo, p. 78-79.]

Thus, the Court of First Instance rendered a decision on November 11, 1974 ordering the parties to comply with the above settlement [Decision of the Minister of Natural Resources, p. 4; Annex "E" to the Petition; Rollo, p. 52.]

On July 20, 1974, petitioners filed with the Bureau of Mines a letter-complaint (Mines Administrative Case No. V-784) against private respondents for alleged overlapping and encroachment of the "Ullmann" claim over the "Ped" claim.

On January 10, 1977, the Director of Mines rendered a decision declaring that there was no conflict between the "Ped" and "Ullmann" claims, the dispositive portion of which reads:

"VIEWED IN THE LIGHT OF THE FOREGOING, the protest and complaint-in-intervention should be, as hereby they are DISMISSED. Accordingly, respondents are hereby given the preferential right to possess, explore, develop, exploit and operate the area covered by their "Ullmann" claim. [Decision of the Director of Mines, p. 4; Rollo, p. 32.]

Since the protest case was filed after Pres. Decree No. 463 (Mineral Resources Development Decree of 1974) took effect on May 17, 1974, the provisions of the law were made applicable to petitioners. Pres. Decree No. 463 mandates compliance with certain requirements in order for subsisting mining claims, such as the "Ped" claim, to avail of the benefits granted under the Decree. Otherwise, mining rights to the claim will be lost. The requirements are embodied in Sections 100 and 101, and Section 180 of the implementing regulations, quoted as follows:

SEC. 100. Old Valid Mining Rights May Come Under This Decree. - Holders of valid and subsisting mining locations and other rights under other laws, irrespective of the areas covered, may avail of the rights and privileges granted under this Decree by making the necessary application therefor and approval thereof by the Director within a period of two (2) years from the date of approval of this Decree.

SEC. 101. Recognition and Survey of Old Subsisting Mining Claims. - All mining grants, patents, locations, leases and permits subsisting at the time of the approval of this Decree shall be recognized if registered pursuant to Section 100 hereof: Provided, that Spanish Royal Grants and unpatented mining claims located and registered under the Act of the United States Congress of July 1, 1902, as amended, otherwise known as the "Philippine Bill", shall be surveyed within one (1) year from the approval of this Decree: Provided, further, That no such mining rights shall be recognized if there is failure to comply with the fundamental requirements of the respective grants: And provided, finally, That such grants, patents, locations, leases or permits as may be recognized by the Director after proper investigation shall comply with the applicable provisions of this Decree, more particularly with the annual work obligations, submittal of reports, fiscal provisions and other obligations. [Emphasis supplied.]

SEC. 180. Failure to File Application to Avail of the Rights and Privileges Under the Decree - Mining grants, patents, locations, leases, permits and other mining rights subsisting at the time of the approval of the Decree for which no corresponding application under Section 100 and 101 of the Decree has been filed with the period provided in Section 176 hereof shall be considered to have lapsed, and the area covered thereby, shall be open to relocation as if no grant, patent, location, lease, permit and other mining rights have been made or granted thereon.

Finding that petitioners failed to comply with the above-cited provisions, respondent director declared in the impugned portion of the decision that:

The records of this case show that respondents submitted in evidence (Exhibit 16) a certification dated August 24, 1976 issued by our Mines Regional Officer in Baguio City to the effect that protestants [petitioners] failed to file the required application to avail for "Ped" mineral claim. Under the circumstances, and considering that the period for the filing of said application has already expired as of May 17, 1976, protestants [petitioners]

have lost whatever rights they have over their mining claim involved in this case. Moreover, protestants [petitioners] failed to perform the required annual assessment work since 1952 as evidenced by the certification issued by the Mining Recorder of Benguet (Exh 17). Needless to state that failure to perform the required annual assessment work constitutes abandonment of the mining claim (Emphasis supplied; Decision of the Director of Mines, pp. 3-4; Annex "C" to the Petition; Rollo, pp. 31-32.)

On appeal to the Minister of Natural Resources, petitioners argued that respondent Director was without jurisdiction or exceeded his jurisdiction in ruling that they have lost their rights over the "Ped" mining claim, since the case was only for overlapping or encroachment and the question of whether they complied with the provisions of Pres. Decree No. 463 was never placed at issue in the pleadings.

On November 19, 1980, then Minister of Natural Resources Jose J. Leido disposed of the appeal thus:

PREMISES CONSIDERED, the instant appeal is hereby dismissed and the decision, dated January 10, 1977, of the Director of Mines affirmed.

SO ORDERED.

[Decision of Secretary of Natural Resources, p. 10; Annex "E" to the Petition; Rollo, p. 58.]

Petitioner's motion for reconsideration was likewise denied by respondent Minister in an Order dated July 10, 1981 [Order, p. 2; Annex "L" to the Petition; Rollo, p. 110.] Hence, this petition for certiorari and prohibition.

Petitioners pray for an order to (1) annul that portion of the decision which declared them to have abandoned and lost their rights on their "Ped" claim; (2) require public respondents to recognize petitioners' vested rights on their "Ped" mining claim; (3) enjoin private respondents to confine themselves within the boundaries of their "Ullmann" claim; and (4) require private respondents to return to petitioners' possession the "Ped" mineral claim [Petition, p. 18; Rollo, p. 19.]

Private respondents and the Solicitor General filed their respective Comments, the Solicitor General adopting petitioners' position. Private respondents then filed their Comment to the Solicitor General's Comment. Thereafter, the Solicitor General submitted his Reply. Whereupon, the case was deemed submitted for decision.

Petitioners reiterate that the portion of the decision which declared petitioners to have lost and/or abandoned their rights to the "Ped" mining claim was issued without jurisdiction, in violation of due process and in grave abuse of discretion.

As counter-argument, private respondents assert that under Section 49 of Pres. Decree No. 463, when petitioners filed their protest case for overlapping of mining claims, they automatically subjected their "Ped" claim to questions on the validity of its location and on the locator's having complied with all the requirements of the Decree.

The issues to be resolved in this case are (1) whether or not public respondents have jurisdiction to pass upon the validity of the "Ped" claim in a protest case of overlapping of mining claims; and (2) should public respondents have such jurisdiction, whether or not they committed grave abuse of discretion or excess of jurisdiction in declaring petitioners to have abandoned their mining claim.

On the issue of jurisdiction, petitioners contend that public respondents may not validly and legally take cognizance of an issue not raised in the complaint, i.e., the issue of the validity of the "Ped" mining claim.

This assertion is mistaken. Petitioners had filed the protest case pursuant to Pres. Decree No. 463 which vests the Bureau of Mines with jurisdiction over protests involving mining claims [Section 48, Pres. Decree No. 463.]

Under the same Decree, Section 90 confers upon the Secretary of Natural Resources, upon recommendation of the Director of Mines, the authority to issue rules, regulations and orders necessary to carry out the provisions and purposes of the Decree. In accordance with the statutory grant of rule-making power, the Department Secretary on May 17, 1975 issued the Consolidated Mines Administrative Order Implementing Pres. Decree No. 463, which was published in the Official Gazette on June 16, 1975.

One such implementing rule is Section 128, which respondent Minister of Natural Resources relied upon in his decision to dispose of the jurisdictional issue raised by petitioners. Section 128 provides:

SEC. 128. Issues Joined. x x x

The Director, or the Secretary, in case of appeals, may *motu proprio* look into the validity of mining claims, whether raised as an issue or not.

It is established in jurisprudence that Congress may validly delegate to administrative agencies the authority to promulgate rules and regulations to implement a given legislation and effectuate its policies [People v. Exconde, 101 Phil 1125 (1957); Director of Forestry v. Munoz G.R. No. L-24796, June 28, 1968, 23 SCRA 1183.] In order to be valid, the administrative regulation must be germane to the objects and purposes of the law, conform to the standards that the law prescribes [People v. Exconde, *supra*, citing Calalang v. Williams, 70 Phil 727 (1940); Pangasinan Transportation v. Public Service Commission, 70 Phil 221 (1940),] and must relate solely to carrying into effect the general provisions of the law [U.S. v. Tupasi Molina, 29 Phil 119 (1914).]

With these guidelines, Section 128 of the implementing rules invoked by public respondents as basis for their jurisdiction cannot be tainted with invalidity. First, it was issued by the Department Head pursuant to validly delegated rule-making powers. Second, it does not contravene the provisions of Pres. Decree No. 463, nor does it expand the coverage of the Decree. Section 128 merely prescribes a procedural rule to implement the general provisions of the enabling law. It does not amend or extend the provisions of the statute [People v. Maceren, G.R. No. L-32166, October 18, 1977, 79 SCRA 450, citing University of Santo Tomas v. Board of Tax Appeals, 93 Phil. 376 (1953).]

Neither can it be maintained that such an implementing rule results in a denial of procedural due process, for it is axiomatic in administrative law that what the law prohibits is not the absence of previous notice, but the absolute absence thereof and lack of opportunity to be heard [Catura v. Court of Industrial Relations, G.R. No. L-27392, January 30, 1971, 37 SCRA 303, citing De Borja v. Tan, 93 Phil. 167 (1953).] In this case, petitioners were afforded the opportunity to be heard on the validity of the "Ped" mining claim when they submitted rebuttal evidence on appeal.

Section 128, being a valid implementing rule, has the force and effect of law. Thus, public respondents were duly empowered to inquire into the validity of the mining claims involved in the protest case, even if not raised in issue.

Having resolved the question of jurisdiction, the Court shall next determine if public respondents acted within their jurisdiction, or if they committed grave abuse of discretion which would warrant the issuance of the writs prayed for.

As a rule, the courts will not interfere with purely administrative matters involving the exercise of judgment and discretion, and findings of fact, of the administrative agency. The exception is when there is a clear showing that the agency acted arbitrarily or with grave abuse of discretion or when it acted in a capricious manner such that its action may amount to an excess or lack of jurisdiction [Pajo v. Ago, 108 Phil. 905 (1960); Ganitano v. Secretary of Agriculture, G.R. No. L-21167, March 31, 1966, 16 SCRA 543; Beautifont, Inc. v. Court of Appeals, G.R. No.

50141, January 29, 1988, 157 SCRA 481.]

The petition is impressed with merit.

Public respondents found that petitioners failed to comply with the requirements set by law, and thus declared petitioners to have abandoned and lost their rights over the "Ped" claim.

However, respondent director's finding that petitioners failed to file the availment-application was based solely on evidence submitted by private respondents. This consisted of a certification issued by the Mines Regional Officer in Baguio City dated August 24, 1976 stating that petitioners failed to file the availment--application for the "Ped" claim within the period provided by law. The finding is effectively contradicted by the rebuttal evidence submitted by petitioners on appeal consisting of an "Affidavit to Avail of Benefits" and an "Application for Order of Survey of Mining Claim" (Appeal?Annex "B" and "B-1", Rollo, pp. 47-48) filed by petitioners with the Bureau of Mines office in Manila on May 12, 1975.

The certification issued by the Mines Regional Officer of Baguio City cannot prevail over the documents clearly evidencing the petitioners' filing the application. Not only was the application filed within the prescriptive period, it was also duly filed with the Bureau of Mines Office in Manila, the venue specified under Section 176 of the implementing rules.

Private respondents argue that the documents were not filed at the proper time since they were not formally offered in evidence when the case was still before the respondent Director, and were only submitted on appeal.

The contention is clearly untenable. Petitioners precisely were unaware that the validity of the "Ped" claim would be passed upon in the protest case since such was not raised as an issue. Hence it was only after the decision in the protest case was rendered that petitioners found the need to present evidence on appeal relating to the validity of the "Ped" claim.

Clearly, respondent Minister gravely abused his discretion when he disregarded the rebuttal evidence submitted by petitioners which otherwise would have had the effect of reversing respondent Director's finding.

As to petitioners' supposed failure to perform annual work obligations on the "Ped" claim since 1952, the conclusion is only partly correct. Annual work obligations, consisting of payment of assessment and taxes, had in fact been paid up to the year 1975, although not by petitioners. The record shows that the payor was the Baguio Gold Mining Company, to which the "Ped" claim, among others, had been assigned by private respondents for operation (Rollo, pp. 93-98.) And subsequent to 1975, petitioners paid the taxes due up to 1981, in compliance with the law's mandate (Rollo, pp. 100-101.) All the documents showing these decisive facts were annexed to petitioners' "Rejoinder to Motion to Strike Out Appellants' Motion for Reconsideration" dated February 25, 1981, and submitted to respondent Minister [Annex "I" to the Petition, pp. 8-9; Rollo, pp.81-82.]

That petitioners were not the actual payors of the assessment due up to 1975 can be attributed to the fact that possession of the subject claim, even up to the date when the present petition was submitted for decision, remained with private respondents, and its ownership had been in dispute in Civil Case No. Q-17136. By the terms of the amicable settlement contained in the November 11, 1974 decision in said civil case, which had long attained finality, private respondents promised to return possession of the "Ped" claim to petitioners, subject to reimbursement by petitioners of all assessments and necessary expenses paid for by private respondents. Petitioners therefore cannot be faulted with non-payment of the assessment works, since such payment was in fact made, at least until 1975, by the party to which such payment pertained. Consequently, such payment inures to the benefit of petitioners.

Respondent Minister evidently knew of the existence of the amicable settlement, since he discussed the terms thereof in his decision [Decision of the Minister of Natural Resources, p. 4; Annex "E" to the Petition; Rollo, p. 52.] Nevertheless, respondent Minister overlooked the fact that from the terms of the settlement, petitioners clearly were not liable to pay the assessment works for the years in question, and that consequently there was no basis for a finding of abandonment of the "Ped" claim by petitioners.

Considering the foregoing, the Court holds that public respondents had the authority to ascertain the validity of the "Ped" claim. Nevertheless, in affirming that portion of the decision of the Director of Mines declaring petitioners to have "abandoned and lost their rights" over the "Ped" claim, respondent Minister committed grave abuse of discretion amounting to lack of jurisdiction.

WHEREFORE, the petition is granted. That part of the decision of the Director of Mines dated January 10, 1977 in Mines Administrative Case No. V-784 declaring petitioners to have "abandoned and lost their rights" over the "Ped" mineral claim is hereby declared NULL and VOID and SET ASIDE.

SO ORDERED.

Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

Fernan, C.J., on leave.

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