

MATEO BACALSO AND CESAR GONZALES, PETITIONERS, VS. HONORABLE COURT OF APPEALS AND CELESTINO BACALSO, RESPONDENTS.

G.R. No. 60494. June 08, 1988

Ponente: YAP, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-60494/>

YAP, C.J.:

This is a petition for review on certiorari of the decision of respondent Court of Appeals¹ which affirmed in toto the decision of the Court of First Instance of Cebu, Branch XV² in Civil Case No. R-7278. the dispositive portion of which states:

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

- Declaring and maintaining that this Court has jurisdiction over this case;
- Finding and declaring as null and void and of no legal force and effect the decision of the Director of Mines in MAC-No. V-239 dated 25 January 1960, as well as the Secretary of Agriculture and Natural Resources in DANR Case No. 2064 dated 6 January 1961;
- Upholding the validity and effectivity of the location and mining rights of plaintiff Celestino Bacalso over his claims known as Elizabeth 1 to 10, inclusive, located in the cities of Cebu and Toledo;
- Ordering the Director of Mines and the Secretary of Agriculture and Natural Resources to give due course and approve plaintiffs lease applications for his Elizabeth 1 to 10 mining claims, namely: Lode Lease Applications Nos. V-2588, V-2757, V-2756 and V-2665; and to reject and disapprove private defendants' (Mateo Bacalso and Cesar Gonzales) lease applications;
- Ordering private defendants to pay plaintiff the sum of P2,000 for attorney's fees and the cost of this suit.

SO ORDERED."

It appears that private respondent Celestino Bacalso, instituted in the Court of First Instance of Cebu an action (Civil Case No. R-7278) to enjoin the then Secretary of Agriculture and Natural Resources from approving the lease applications of Mateo Bacalso and Cesar Gonzales (herein petitioners) over some mineral mining locations in several barrios of Toledo, Cebu (now Toledo City) referred to as Mateo 1 to 10. The complaint alleged that the decisions of the Director of Mines and the Secretary of Agriculture and Natural Resources were rendered without jurisdiction or in excess of jurisdiction and with grave abuse of discretion in that they were rendered in disregard

of (1) his legitimate prior claims, his continuous possession of, survey and application for lease, over the areas covered; (2) the fact that he had superior rights over defendants (herein petitioners) Mateo Bacalso and Cesar Gonzales for lease of the area over which he had recorded location rights and was thus entitled to a grant of lease contract. The complaint was subsequently amended to allege that defendants therein had only recorded their mining locations but had not filed lease applications and, hence, the decision of the Secretary of Agriculture and Natural Resources that defendants were entitled to a preference in leasing the mining claims had been rendered without jurisdiction or in excess of jurisdiction or with grave abuse of discretion.

Private defendants, herein petitioners, and the Secretary of Agriculture and Natural Resources moved to dismiss the original as well as the subsequent amended complaint but said motions were denied. Defendants raised the ruling on the denial of their motion to dismiss the second amended complaint before the Supreme Court in two separate special civil actions.[3] These were both denied.

Consequently, after trial, the lower court rendered the aforequoted decision. As earlier stated, the Court of Appeals affirmed the said decision on appeal, hence, this petition for review by both public petitioners and private petitioners.

Petitioners raise the following issues, to wit:

- (1) Whether or not there is conflict of location rights involved before the Director of Mines in MAC No. V-239 affirmed by the Honorable Secretary of DANR Case No. 20264 thus conferring jurisdiction on the administrative bodies to entertain the protest of private petitioners.
- (2) Whether or not the trial court can substitute its own finding of facts for that of the Director of Mines and the Secretary of Agriculture and Natural Resources on whether the parties had discovered minerals or they had performed valid acts of location.
- (3) Whether or not the respondent court erred in rendering judgment in favor of private respondent and against petitioners, and denying the motion for reconsideration filed in due time.

The thrust of petitioners' argument is that the lower court did not have jurisdiction over the case because contrary to the findings of the court, as affirmed by the appellate court, the complaint involves a dispute over mining locations cognizable under Section 61 of the Mining Act (C.A. No. 137 as amended by R.A. No. 746 and R.A. No. 4388) and not under Section 73 of said Act. This being so, petitioners argue, the only recourse of the party aggrieved by the decision of the Director of Mines or the Secretary of Agriculture and Natural Resources is to appeal to the court of competent jurisdiction within 30 days from receipt of the order or decision of said officials. In the instant case, petitioners allege that private respondent filed the complaint beyond the reglementary period mandated in the cited provision, hence the decision of the Secretary of Agriculture and Natural Resources affirming the decision of the Director of Mines had already become final and executory.

Respondents on the other hand contend that the Director of Mines had no jurisdiction to hear and decide the protest of petitioners but should have directed them to file a case in the competent court and ventilate their protest in said court as provided in Sections 72 and 73 of the Mining Act. It is therefore clear that in the instant case, the Director of Mines had no jurisdiction to try and decide Mines Adm. Case No. V-239 and had committed a grave abuse of discretion amounting to lack or excess of jurisdiction when he did try, hear, and decide the aforementioned case.

The petitioners' contention is meritorious. The allegations in the complaint unequivocally show that the action was by way of appeal from the decision of the Secretary of Agriculture and Natural Resources under the provision of Section 61 of Commonwealth Act No. 137, as amended by Republic Act No. 746, which states:

"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 thirty days from the date of its receipt. In case any one 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 the court of competent jurisdiction within thirty days from the receipt of such decision or order; otherwise the said decision or order shall be final and binding upon the parties concerned."

The above quoted provision is clear and explicit. In an earlier case involving its application, this Court, speaking thru Justice Bautista Angelo, said:

"It would appear from the above that in case one of the parties should disagree from the decision or order of the Director of Mines or of the Secretary of Agriculture and Natural Resources over a conflict or dispute which arises out of a mining location the matter may be taken to the court of competent jurisdiction within 30 days from receipt of such order or decision, otherwise the same shall become final and binding upon the parties concerned. Here there is no dispute that the required period of 30 days had already lapsed when appellant actually instituted the present action, and such being the case it would appear that the court a quo was correct in ruling that the action of appellants is already lost and the case should be dismissed." [4]

In the instant case it was not disputed that the decision of the Secretary of Agriculture and Natural Resources was received by counsel for private respondents on September 26, 1961. It is clear therefore that 57 days passed from the receipt of the decision up to the filing of the complaint. The decision had indeed become final.

The respondents contend, however, that the action was within the original, not appellate, jurisdiction of the court under Section 73 of the Mining Act. This section provides:

"SEC. 73. At any time during the period of application, any adverse claim may be filed under oath with the Director of Mines, and shall state in full detail the nature, boundaries, and extent of the adverse claim, and shall be accompanied by all plans, documents, and agreements upon which such adverse claim is based.: Provided, however, That no adverse claim from any person, association, partnership or corporation, whose protest filed under Section sixty-one of this Act has already been finally decided by the Director of Mines and/or the Secretary of Agriculture and Natural Resources, shall be entertained. Upon the filing of any adverse claim all proceedings except the publication of notice of application for lease and the making and filing of the affidavit in connection therewith, as herein prescribed, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction to determine the controversy and to prosecute the same with reasonable diligence to final judgment, and a failure to do so shall be considered as a waiver of his adverse claim. After such judgment shall have been rendered, the party whose right to a lease on the mining claim in controversy, or any portion thereof, shall have been established thereby, may, without giving further notice, file a certified copy of the judgment with the Director of Mines, and the description required in such cases, together with the proper fees, whereupon a lease may forthwith be granted thereon on such mining claim or on such portion thereof as the applicant may be entitled to under the decision of the court, x x x."

It is very clear that the foregoing provision does not apply in this case. It contemplates a situation where no conflict or dispute concerning mining locations has been submitted to and decided administratively under Section 61. If there is such a conflict and a decision is rendered by the Director of Mines and/or the Secretary of Agriculture and Natural Resources, then the only remedy of the losing party is to appeal to the court, and the appeal must be taken within the reglementary period of thirty (30) days.

The testimony of private respondent Celestino Bacalso amply shows the existence of a dispute over mining

locations between him and private petitioners. He categorically stated that there is overlapping and even complete identity of some of the Mateo and Elizabeth claims. Indeed, if there were no dispute between the parties over their mining claims, there would have been no controversy or case filed either with the Bureau of Mines or the court.

In the same case of *Tiongco vs. Hercules Iron Mines Development, Inc.*, the Court said that "no adverse claim under Section 73 shall be entertained once the administrative decision rendered under Section 61 has become final. Otherwise, there would be multiplicity of suits involving the same parties, subject matter and cause of action, wherein conceivably there may be conflicting decisions, both of them final — one administrative and the other judicial." [5]

In *Atlas Consolidated Mining & Development Corporation v. Mendoza* [6] the Court said that our Mining Act prescribes two (2) proceedings for the settlement of conflicting mining claims. One refers to the manner of disposing of the same, before publication of the notice required in Section 72. This is the subject matter of Section 61. The other is that which provided for the determination of issues raised by adverse claims filed during the period of said publication. This is governed by Sections 72 and 73. In the first case, to which the one at bar belongs, the procedure is for the Director of Mines to hear the conflicting claimants and settle the issue between them, without prejudice to either party appealing from the decision of said officer to the Secretary of Agriculture and Natural Resources or to the proper court, to which the parties may, also, appeal from the decision of said Department head.

In view of the fact that private respondent's application for lease over the mining area has not been published under Section 72, although at the time of the filing of the protest of private petitioners with the Director of Mines, private respondent had already filed his application for lease only for three claims, the Director of Mines may still take cognizance of the case. The filing of the application without the notice of such application being published as required by law does not divest the Director of Mines of his authority to investigate and settle the dispute between the parties which involved discovery of minerals and location of mining claims. The publication of the notice is an act that involves discretion and not ministerial since it is incumbent on the Director of first determine whether an applicant has substantially complied with the requirements of the Act, such as actual discovery of minerals and valid acts of location.

ACCORDINGLY, the petition is granted. The decision of the respondent Court of Appeals dated March 16, 1982 in C.A. G.R. No. 60772-R affirming the decision of the Court of First Instance of Cebu in Civil Case No. R-7278 is hereby set aside. The decision of the Director of Mines in MAC No. V-239 and the Secretary of Agriculture and Natural Resources in DANR Case No. 2064 are hereby affirmed. No pronouncements as to costs.

SO ORDERED.

Melencio-Herrera, Paras, Padilla, and Sarmiento, JJ., concur.

[1] Sixth Division, then composed of Alampay, Borromeo and Mendoza, JJ., Alampay, J., ponente.

[2] Then presided by Judge Pascual G. Berciles.

[3] G.R. Nos. L-21134 and L-38459.

[4] *Fianza v. National Power Corporation*, 3 SCRA 905, 908. Also quoted in *Tiangco v. Hercules Iron Mines Development, Inc.*, 29 SCRA 800, 803.

[5] Supra, p. 804.

[6] 2SCRA 1064. 1068.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.