

**RAJAH LAHUY MINING COMPANY, REPRESENTED BY ITS
PRESIDENT, RICARDO D. LACUNA, AND WEST PACIFIC RICH
MINERALS, INC., REPRESENTED BY ITS PRESIDENT, SEBASTIAN
ORDUNA, II, PETITIONER...**

G.R. No. 69261. May 13, 1985

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the jurisdiction of the Regional Trial Court to fix the compensation due to the owner of a mineral land for prospecting or exploring therein. Raquel Enriquez, Ma. Ramona Arenillo and Emily Sta. Ana are the registered co-owners of a parcel of land with an area of 24 hectares located at Barrio Gata, Lahuy Island, Caramoan, Camarines Sur.

On August 23, 1984 they sued in Civil Case No. 84-470 of the Regional Trial Court of Camarines Sur Rajah Lahuy Mining Company and West Pacific Rich Minerals for the payment of just compensation or rental due to them as surface owners as the sine qua non for the grant of authority to conduct mining operations on the island.

The instant certiorari and prohibition case was filed by the Lahuy company and Wespar because Judge Pajares refused to dismiss the complaint on the grounds of non-exhaustion of administrative remedies, lack of jurisdiction, resjudicata and prescription.

We impleaded the Director of Mines and Geo-Sciences who in his comment dated March 18, 1985 confirmed the opinion of the bureau's senior legal officer, Roberto R. Blanco, and the view of the petitioners that the issues in Civil Case No. 84-470 are within his jurisdiction. He cited the pertinent laws and regulations.

Presidential Decree No. 512, which took effect on July 19, 1974, declares prospecting and other mining operations to be of public use and benefit. It establishes the basis, and prescribes the rules and procedures, relative to the acquisition and use of surface rights in mineral prospecting, development and exploitation and gives protection and compensation to surface owners. It provides:

"SEC. 2. Subject to prior notification, prospectors or claimants of mineral lands shall not be prevented from entry into private lands by surface owners and occupants when prospecting or exploring therein:

Provided, That any damage done to the property of the surface owner shall be properly compensated:

Provided, further, That to guarantee such compensation to the surface owner, the prospector or claimowner shall post a bond with the Bureau of Mines and Geo-Sciences in an amount to be fixed by the Director of Mines based on the type of property and the prevailing price of lands in the area where prospecting and other mining activities are to be conducted and with surety or sureties satisfactory to the Director of Mines. The decision of the Director of Mines may be appealed within five (5) days from receipt thereof to the Secretary of Natural Resources, whose decision shall be final."

The Mineral Resources Development Decree of 1974, Presidential Decree No. 463, prescribes a modern system of administration of mineral lands and promotes and encourages the development and exploitation thereof. As amended by Presidential Decree No. 1385, effective May 25, 1978, it provides:

"SEC. 12. Entry into Public and Private Lands. — Subject to the provisions of Presidential Decree No. 512, a qualified person and/or his authorized representative shall not be prevented from entry into private lands by surface owners and/or occupants thereof when prospecting, exploring and exploiting for minerals therein. No prospecting, exploration and exploitation of mineral resources inside a forest concession shall be allowed unless proper notice has been served upon the licensee thereof."

The above legal provisions should be read in connection with Consolidated Mines Administrative Order (CMAO) which provides:

"SEC. 10. Entry into lands. — The prospector, locator, claimowner or mining operator shall not be prevented from entry into private lands for the purpose of prospecting, locating, exploration, development and exploitation of mining claims containing metallic ores, upon prior written notification sent to and duly received by the surface owner of the land and occupant thereof. However, if the surface owner of the land and occupant thereof (a) refuses to allow the prospector, locator, claimowner or mining operator entry into the land despite his receipt of the written notification; or (b) refuses to receive said written notification; or (c) cannot be found, the prospector, locator, claimowner or mining operator shall notify the director of such fact, and attaching thereto a copy of the written notification. (Sec. 1. MRD-15.)

SEC. 11. Posting of the bond. — In all cases mentioned in Section 10 above, the prospector, locator, claimowner or mining operator shall post a bond with the Bureau of Mines in the amount to be fixed by the Director based on the type of the land and the value of the trees, plants and other existing improvements thereon shall be the basis of the compensation of the surface owner of the land and occupant thereof in the appropriate cases mentioned in Sec. 12. The order of the Director may be appealed within five (5) days from receipt thereof to the secretary whose decision shall be final. The appeal, however, shall not stay the Order. (Sec. 1, MRD-15.)"

Presidential Decree No. 512 provides for the manner of compensating the surface owner in this wise:

"SEC. 3. The owner of a titled property within which mineral development or exploitation is undertaken shall be entitled to at least one-third (1/3) of the total royalty due the claimowner from the operator based on the prevailing standard royalty in the area where said mining operation is being undertaken, or one percent (1%) of the value of the gross output of minerals therein where there is no prevailing standard royalty or in any other case where no royalty payment is involved or has been arranged:

Provided, That such landowner may choose to receive payment for any damage caused to his property and compensation for his land at the prevailing market price or assessed value, whichever is higher, plus five percent (5%) of the royalty due the claimowner on the value of gross output of metallic minerals therein:

Provided, further, That if the right of the surface owner to his land is based on incomplete land titles, as homesteads, sales, leases and other forms of land right not perfected under the torrens system, the surface right compensation shall be one-fifth (1/5) of the total royalty due the claimowner from the operator, or damages and payment of the land plus three percent (3%) of the royalty due the said claimowner, or six-tenths (6/10) of one percent (0%) of the value of gross output as above stated:

Provided, finally. That the rate of royalty herein set shall apply only in cases of the exploration, development and exploitation of metallic ores. Metallic ores shall be those containing metals, such as gold, copper, silver, iron, nickel and other minerals which the Director of Mines may determine as such by regulation."

Section 3 is implemented in the following provisions of the CMAO:

"SEC. 12. Compensation of the Surface Owner and Occupant. — In the absence of an agreement, the surface owner of the land and occupant thereof shall be entitled to select one of the following compensations:

A. For titled lands:

(1) In the case of prospecting, location or exploration of mining claim — the rentals for use and occupancy of the land plus the value of trees, plants and other improvements that are damaged or destroyed, or

(2) In the case of developments and exploitation of mining claims — at the option of the surface owner and occupant (a) one-third (1/3) of the royalty due the claimowner based on the prevailing standard of royalty in the area, or when there is no prevailing standard of royalty, etc. (b) damage to the trees, plants and other improvements plus five percent (5%) of the royalty due the claimowner; or (c) sale of the land at the fair market value of the land or its assessed value, whichever is higher.

B. For land with incomplete titles:

(1) In case of prospecting, location or exploration of mining claims — the rental for the use and occupancy of the land plus the value of trees, plants and other improvements that are damaged or destroyed, or

(2) In the case of developments and exploitation of mining claims — at the option of the surface owner and occupant (a) one-fifth (1/5) of the royalty due the claimowner from the mining operator, or (b) the value of the trees, plants and other improvements that are damaged or destroyed plus three percent (3%) of the royalty due the claimowner, or (c) six-tenths (6/10) of one percent (1%) of the value of the gross output, or (d) the fair market value of his rights to the land.

The compensation referred to above based on royalty shall be payable by the claimowner. while the incomplete title to lands referred to in subparagraph B shall mean those possessory rights which can open into rights of ownership registrable under Torrens System.

SEC. 13. Voluntary Agreements. — The voluntary agreement between a surface owner and occupant and the prospector, locator, claimowner or mining operator permitting the latter to enter into and use his land shall be registered with the Mines Regional Office and the Office of the Register of Deeds concerned. The said agreement shall be binding upon the parties, their heirs, successors and assigns (Sec. 1, MRD-15).

SEC. 14. Compensation in Cases of Non-Metallic Ores. — The rate of compensation, royalty, or payment for damages to be paid to the land owner in cases of the exploration, development, exploitation of non-metallic ores extracted within his land shall be fixed by the Director as he may deem after proper hearing of the parties concerned."

We hold that the Bureau of Mines and Geo-Sciences under its organic law, Presidential Decree No. 1281, has jurisdiction to determine the compensation payable to the surface owners. The Regional Trial Court has no authority to make that determination in the first instance.

To expedite matters, the complaint of respondents Raquel Enriquez, et al., of which the Bureau of Mines and Geo-Sciences had already been furnished, should be indorsed to its Regional Director in the Bicol Region for hearing in accordance with its Office Circular No. MRD 44, series of 1985.

WHEREFORE, the petition is granted. The order denying the order of dismissal is reversed and set aside. The Regional Trial Court is permanently enjoined from hearing Civil Case No. 84-470. No costs.

SO ORDERED.

Makasiar (Chairman), Abad Santos, Escolin, and Cuevas, JJ., concur.
Concepcion, Jr., J., took no part.

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