

**UNGAY MALOBAGO MINES, INC., PETITIONER, VS. HON.
INTERMEDIATE APPELLATE COURT, DIRECTOR OF LANDS,
GREGORIA BOLANOS, AUREA ARAOJO, GERVACIO ARAOJO, MARIA
BERNAL, FELIX DETECIO, J...**

G.R. No. 69997. September 30, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Before us is a petition which seeks to set aside the decision of the then Intermediate Appellate Court affirming the dismissal of the petitioner's action for annulment and cancellation of free patents granted to the private respondents on the ground that the petitioner has no personality to file an action for reversion, the lands involved being public in character.

On July 20, 1962, the President of the Philippines granted the following mining patents on mineral claims located at Ungay Malobago, Rapu-Rapu, Albay:

- "1. lode patent No. V-52 to John Canson, Jr., on mineral claim known as 'Catanduandes';
2. lode patent No. V-48 to petitioner, on mineral claims known as 'Junior';
3. lode patent No. V-53 to John Canson, Jr., on mineral claims known as 'Oas';
4. lode patent No. V-46 to petitioner on mineral claim known as 'Ester';
5. lode patent No. V-51 to Carlos Stilianopulos on mineral claim known as 'Jovellar';
6. lode patent No. V-49 to petitioner, in mineral claim known as 'Manila';
7. lode patent No. V-50 to Carlos Stilianopulos on mineral claim known as 'Polangui'; and
8. lode patent No. V-47 to petitioner on mineral claim known as 'Ligao'; (pp. 5-7, Decision Annex 1, Petition)

Way back on October 30, 1959, John Canson, Jr. and Carlos Stilianopulos assigned their rights to their mining claims in favor of the petitioner. The assignment of rights was recorded in the Office of the Mining Recorder of Albay on December 2, 1959.

The aforestated mining patents, after their issuance on July 20, 1962, were all recorded in the Office of the Mining Recorder of Albay on August 28, 1962 and transcribed on September 4, 1962 in the Registration Book of the Registry of Deeds of Albay. Consequently, the Register of Deeds of Albay issued the respective original certificates of titles pursuant to Section 122 of Act No. 496 in the names of John Canson, Jr., Carlos Stilianopulos, and the petitioner.

Subsequently, or from 1968 to 1974, the following free patents were granted by the respondent Director of Lands and the corresponding original certificates of titles were issued by the Register of Deeds of Albay:

- "1. Free Patent No. 458143 dated October 3, 1968 and corresponding Certificate of Title No. VH-12195 to appellee Felix Detecio;
2. Free Patent No. 427824 dated November 21, 1968 and corresponding Certificate of Title No. VH-12256 to appellee Melanio Asuncion;
3. Free Patent No. 433318 dated January 10, 1969 and corresponding Certificate of Title No. VH-12198 to appellee Jesus Asuncion;
4. Free Patents No. 422847 dated November 11, 1968 and No. 421947 dated October 28, 1969 and corresponding Certificates of Title Nos. VH-12185 and 12186, respectively, to appellee Maria Bernal;
5. Free Patent No. 408568 dated July 8, 1968 and corresponding Certificate of Title No. VH-11591 to appellee Gregorio Bolanos; and
6. Free Patent No. 0663 dated March 25, 1974 and the corresponding Certificate of Title No. VH-19333 to appellee Bienvenido Asuncion.

(Rollo, pp. 200-201)

All of the above patents covered portions of the lots covered by the patents belonging to the petitioner.

The petitioner filed a complaint for annulment and cancellation of patents against the private respondents and prayed that all the free patent titles issued in their favor for properties over which original certificates of title had already been issued in its favor be declared null and void.

The Director of Lands, who was impleaded as a formal defendant, filed his answer alleging, among others, that the petitioner has no personality to institute the cancellation proceedings inasmuch as the government is the grantor and not the petitioner, and it should be the grantor who should institute the cancellation proceedings.

On January 25, 1980, the trial court rendered a decision dismissing the complaint. It ruled that since the disputed properties form part of disposable land of the public domain, the action for reversion should be instituted by the Solicitor General in the name of the Republic of the Philippines and that, therefore, the petitioner lacks personality to institute the annulment proceedings.

The petitioner appealed to the then Intermediate Appellate Court.

On April 5, 1984, the appellate court affirmed the decision of the trial court. It ruled that the titles issued to the petitioner cover mineral lands which belong to the public domain and that these cannot be the subject of private ownership. According to the Court, under Section 101 of the Public Land Law, only the Solicitor General or the officer acting in his stead has the authority to institute an action on behalf of the Republic for the cancellation of the respondents' titles and for reversion of their homesteads to the Government.

In this instant petition, the petitioner raises two issues: a) Whether or not the appellate court committed an error of law when it ruled that the lands in question belong to the public domain; and b) whether or not the appellate court erred in dismissing the complaint on the ground that the petitioner had no personality to institute the same.

With regard to the first issue, the petitioner maintains that since its mining claims were perfected prior to November 15, 1935, the date when the 1935 Constitution took effect, the applicable law is the Philippine Bill of 1902 and that under this Act, a valid location of a mining claim segregates the area from the public domain. (*Gold Creek Mining Corporation v. Rodriguez*, 66 Phil. 259).

The Solicitor-General, on the other hand, argues that the petitioner's mining patents covered by Torrens Titles

were granted only in 1962 by the President of the Philippines, by authority of the Constitution of the Philippines. Under the then Constitution, except for public agricultural lands, natural resources which includes all mineral lands, shall not be alienated. (Art. XIII, Section 1, 1935 Constitution) Therefore, what the mining patents issued in 1962 conveyed to petitioner was only the ownership of, and the right to extract and utilize, the minerals within the area covered by the petitioner's Torrens Titles but not the ownership of the land where the minerals are found.

We rule for the private respondents.

The petitioner has been beguiling, less than candid, and inexplicably silent as to material dates in the presentation of its case. Nowhere in the records of this petition is there any mention of a date before November 15, 1935 as to when essential acts regarding its mining claims were executed. It is silent as to when the land was entered, measured, and plotted; when the legal pests and notices were put up; when the claim was registered with the mining recorder; whether or not the annual amount of labor or development; and other requirements under the Philippine Bill of 1902 were followed. These may have been complied with but not necessarily before 1935.

A mere mention in the Torrens title that the provisions of the Philippine Bill of 1902 were followed is not sufficient. The Philippine Bill provides the procedures for the perfection of mining claims but not the dates when such procedures were undertaken by any prospector or claimant. The same procedures would have to be followed even after the Jones Law of 1916 and the Constitution of 1935 were promulgated, but subject to the restrictions of the fundamental law. The petitioner has failed to state if and when new procedures, different from the 1902 procedures, were provided by law to give a little substance to its case. The petitioner is completely and strangely silent about these vital aspects of its petition.

Petitioner has not established by clear and convincing evidence that the locations of its mining claims were perfected prior to November 15, 1935 when the Government of Commonwealth was inaugurated. In fact neither the original complaint nor the amended one alleged the perfection of petitioner's mining rights prior to November 15, 1935. All that petitioner offers as evidence of its claims were the original certificates of titles covering mining patents which embodied a uniform "WHEREAS" clause stating that the petitioner "has fully complied with all the conditions, requirements, and provisions of the Act of the United States of Congress of July 1, 1902, as amended, x x x" In the absence of proof that the petitioner's claims were perfected prior to the 1935 Constitution, the provision of the latter with regard to inalienable lands of the public domain will apply.

Article XIII, Section 1 of the 1935 Constitution provides:

"All agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, and other natural resources of the Philippines belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines, or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this Constitution. Natural resources, with the exception of public agricultural land, shall not be alienated and no license, concession, or lease for the exploitation, development, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for another twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases beneficial use may be the measure and the limit of the grant."
(Emphasis supplied)

Therefore, applying the aforequoted provision to the case at bar, we conclude that the issuance of the lode patents on mineral claims by the President of the Philippines in 1962 in favor of the petitioner granted to it only the right to extract or utilize the minerals which may be found on or under the surface of the land. On the other hand, the issuance of the free patents by the respondent Director of Lands in 1979 in favor of the private respondents

granted to them the ownership and the right to use the land for agricultural purposes but excluding the ownership of, and the right to extract or utilize, the minerals which may be found on or under the surface.

There is no basis in the records for the petitioner's stand that it acquired the right to the mineral lands prior to the effectivity of the 1935 Constitution, thus, making such acquisition outside its purview and scope.

Every application for a concession of public land has to be viewed in the light of its peculiar circumstances. (*Director of Lands v. Funtilar*, 142 SCRA 57, 69).

In the case at bar, although the original certificates of titles of the petitioner were issued prior to the titles of the private respondents, the former cannot prevail over the latter for the provisions of the Constitution which governed at the time of their issuance prohibited the alienation of mineral lands of the public domain.

In the case of *Republic v. Animas* (56 SCRA 499), this Court ruled that a grantee does not become the owner of a land illegally included in the grant just because title has been issued in his favor:

"A patent is void at law if the officer who issued the patent had no authority to do so (*Knight v. Land Ass.*, 142 U.S. 161, 12 Sup. Ct., 258, 35 L. ED. 974; *italics supplied*). If a person obtains a title under the Public Land Act which includes, by mistake or oversight, lands which cannot be registered under the Torrens System, or when the Director of lands did not have jurisdiction over the same because it is a public forest, the grantee does not, by virtue of said certificate of title alone, become the owner of the land illegally included. (See *Ledesma v. Municipality of Iloilo*, 49 Phil. 769)"

Moreover, patents and land grants are construed favorably in favor of the Government, and most strongly against the grantee. Any doubt as to the intention or extent of the grant, or the intention of the Government, is to be resolved in its favor. (See *Republic v. Court of Appeals*, 73 SCRA 146, 156). Hence, as earlier stated, in the absence of proof that the petitioner acquired the right of ownership over the mineral lands prior to the 1935 Constitution, the titles issued in its favor must be construed as conveying only the right to extract and utilize the minerals thereon.

The appellate court did not likewise err in concluding that the petitioner has no personality to institute the action below for annulment and cancellation of patents. The mineral lands over which it has a right to extract minerals remained part of the inalienable lands of the public domain and thus, only the Solicitor General or the person acting in his stead can bring an action for reversion. (See *Sumail v. Judge of the Court of First Instance of Cotabato, et al.*, 96 Phil. 946; and *Heirs of Tanak Pangawaran Patiwayan v. Martinez*, 142 SCRA 252).

WHEREFORE, the petition is hereby DISMISSED for lack of merit. The decision of the Intermediate Appellate Court is AFFIRMED. Costs against the petitioner.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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