

ATLAS CONSOLIDATED MINING AND DEVELOPMENT CORPORATION, PETITIONER, VS. HON. FULGENCIO S. FACTORAN, JR., IN HIS CAPACITY AS DEPUTY EXECUTIVE SECRETARY, AND ASTERIO BUQUERON, RESP...

G.R. No. 75501. September 15, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari, seeking to set aside the decision rendered by public respondent Deputy Executive Secretary Fulgencio S. Factoran, Jr., by authority of the President, reinstating and confirming the decision dated April 17, 1978 of the Director of Mines and Geo Sciences, and setting aside the decision of the Minister of Natural Resources.

The undisputed facts of this case are as follows:

On February 9, 1972, Atlas Consolidated Mining and Development Corporation registered the location of its "Master VII Fr." mining claim with the Mining Recorder of Toledo City. On September 10, 1973, private respondent Asterio Buqueron registered the declarations of location of his "St. Mary Fr." and "St. Joseph Fr." mining claims with the same Mining Recorder. On October 15, 1973, Atlas registered the declarations of location of its "Carmen I Fr." to "Carmen V Fr." with the same Mining Recorder.

Buqueron's "St. Mary Fr." and "St. Joseph Fr." were surveyed and the survey plans thereof were duly approved by the Director of Mines and Geo Sciences. Notice of Buqueron's lease application was published in the February 22 and 28, 1977 issues of the Evening Post.

During the said period of publication, petitioner filed an adverse claim against private respondent's mining claims on the ground that they allegedly overlapped its own mining claims.

After hearing, the Director of Mines rendered a decision, dated April 17, 1978, the dispositive portion of which reads:

"VIEWED IN THE LIGHT OF THE FOREGOING, respondent (Buqueron) is hereby given the preferential right to possess, lease, explore, exploit and operate the areas covered by his "St. Mary Fr." and "St. Joseph Fr." mining claims, except the area covered thereby which is in conflict with adverse claimant's (Atlas) "Master VII Fr." Adverse claimant (Atlas) on the other hand, is given the preferential right to possess, lease, explore, exploit and operate the area covered by its "Master VII Fr." claim."

Atlas appealed to the Minister of Natural Resources who rendered a decision dated November 10, 1978, the dispositive portion of which reads as follows:

"PREMISES CONSIDERED, the decision of the Director of Mines dated April 17, 1978, should be, as hereby it is, set aside. In lieu thereof, it is hereby declared that the "St. Mary Fr." and "St. Joseph Fr." mining claims of

Asterio Buqueron are null and void, that the "Carmen I Fr." to "Carmen V Fr." mining claims, of Atlas Consoli-dated Mining and Development Corpora-tion are valid, and that it be given the preferential right to possess, explore, exploit, lease and operate the areas covered thereby."

(Decision, Office of the President; Rollo, pp. 52-57; Decision of the Minis-ter of Natural Resources, Rollo, pp. 47-51; Comment of Public Respondent, Rollo, pp. 88-90; Decision, Director of Mines, Rollo, pp. 157-160).

As aforestated, on further appeal, the Deputy Executive Secretary, Office of the President, reversed the decision of the Minister of Natural Resources and reinstated the deci-sion of the Director of Mines and Geo Sciences.

Hence, this petition.

Briefly stated, petitioner's assignment of errors may be combined into the following issues:

- (1) Whether or not private respondent's appeal to the Office of the President was time-barred;
- (2) Whether or not there was a valid location and discovery of the disputed mining claims.

The Second Division of this Court without giving due course to the petition, required respondents to comment in the resolution of October 6, 1986 (Rollo, p. 76). Both private respondent and public respondent filed their respective comments on November 17, 1986 (Rollo, pp. 81-86; pp. 88-95).

On December 8, 1986 (Rollo, p. 104) this Court required the respondents to file a rejoinder to the consolidated reply filed by counsel for petitioner dated November 4, 1986 (Rollo, pp. 97-102). Said rejoinder was filed on February 6, 1987 (Rollo, pp. 108-111), by the Solicitor General for public respondent, after which petitioner filed a sur-rejoinder thereto on March 13, 1987 (Rollo, pp. 113-116). Thereafter the Court in the resolution of March 30, 1987 gave due course to the petition and required both parties to file their respective memoranda.

Counsel for public respondent filed a Manifestation/Motion praying to be allowed to adopt its comment dated November 2, 1986 and Rejoinder dated February 4, 1987 as the memorandum for public respondent. Petitioner filed its memo-randum on May 25, 1987 (Rollo, p. 136).

The petition is devoid of merit.

I.

It is not disputed that private respondent received a copy of the decision of the Minister of Natural Resources dated November 10, 1978 on November 27, 1978 and that under Section 50 of Presidential Decree No. 463, the decision of the Minister is appealable to the Office of the President within five (5) days from receipt thereof. In the case at bar, the 5-day period expired on December 2, 1978, a Saturday, private respondent filed his appeal on December 4, 1978, a Monday.

Petitioner contends that the appeal was filed out of time and therefore, the Office of the President did not acquire jurisdiction over the case and should have dismissed the same outright (Rollo, pp. 20-21).

This contention is untenable.

Petitioner and private respondent are in accord on the fact that at the time of the filing of the questioned appeal, Saturday was observed as a legal holiday in the Office of the President pursuant to Section 29 of the Revised Administrative Code as amended.

The same law provides:

"Section 31. Pretermission of holiday. - Where the day, or the last day, for doing any act required or permitted

by law falls on a holiday, the act may be done on the next succeeding business day."

Apart from the fact that the law is clear and needs no interpretation, this Court in accordance therewith has invariably held that in case the last day for doing an act is a legal holiday, it does not have the effect of making the preceding day, the last day for doing the same; the act may be done on the next succeeding business day (*Gonzaga v. Ce David*, 110 Phil. 463-464 [1960]; *Calano v. Cruz*, 91 Phil. 247 [1952]; *Austria, et al. v. The Solicitor General, et al.*, 71 Phil. 288 [1941]).

Coming back to the case at bar, as the next working day after December 2, 1978 was December 4, 1978 - a Monday, it is evident that private respondent's appeal was filed on time.

II.

It is apparent that the second issue as to whether or not there was a valid location and discovery of the disputed mining claims is a question of fact best left to the determination of the administrative bodies charged with the implementation of the law they are entrusted to enforce. As uniformly held by the Court, it is sufficient that administrative findings of fact are supported by evidence, or negatively stated, it is sufficient that findings of fact are not shown to be unsupported by evidence. Substantial evidence is all that is needed to support an administrative finding of fact, and substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." (*Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635, 642; *Police Commission v. Lood*, 127 SCRA 762 [1984]).

In the case at bar, the record amply shows that the Director of Mines' decision was supported by substantial evidence.

Petitioner claimed that it is a registered surface land owner and locator of six (6) lode claims duly registered with the Office of the Mining Recorder as above stated and that in derogation of its established possessory rights, private respondent Asterio Buqueron, without its written permission, caused the "table" location and survey and applied for the lease of his alleged mining claims known as "St. Mary Fr." and "St. Joseph Fr." lode claims.

In his answer, private respondent denied the material allegations of the adverse claim and by way of affirmative defense alleged that all of petitioner's claims including a portion of Master VII Fr. are null and void for having been located in areas which were closed to mining location in open and gross violation of paragraph 1 (d) of Section 28 and of Section 60 of the Mining Act as amended.

The main thrust of petitioner's claim is that all of the mining claims of both petitioner and private respondent are located inside the premises or properties of the former, so that it is hardly possible for private respondent to have conducted the requisite location and survey without having been seen or noticed by petitioner and its personnel.

The Director of Mines established that there is in fact an overlapping of mining claims of petitioner and private respondent and that as a matter of record petitioner's mining claims were registered subsequent to those of private respondent with the exception of Master VII Fr. which was registered on February 9, 1972 or prior to the registration of the mining claims of private respondent.

In ruling as to who, between the parties shall be given preferential right to lease the area in question, the Director of Mines' findings are as follows:

"Adverse claimant in its attempt to impugn the validity of the mining claims of respondent alleged that said mining claims were the result of table locations and survey and in support thereof submitted the sworn statements of its Chief Geologist and Chief Security.

On the other hand, respondent asserted that he, through his authorized representative actually and validly performed all the acts of discovery and location required by law and the field survey of his mining claims was actually conducted by Geodetic Engineer Salvador Aligaen from December 16 to 18, 1974. In support of this assertion, respondent submitted in evidence affidavit of the authorized agent (Annex "D" of the answer) and another affidavit of Geodetic Engineer Salvador Aligaen (Annex "F" of the answer). Respondent also submitted in evidence Bureau of Forestry map and Bureau of Coast and Geodetic Survey map of the total area (Exhs. "9" to "10") which embraces the area in question. These maps tend to prove that the Atlas main gate is not the only point of ingress and egress such that one can enter the area in question for the purpose of mining location and survey without being noticed by any of the personnel of Atlas.

After a careful appraisal of the evidence submitted, and cognizant as we are of the provisions of Presidential Decree No. 99-A, we are of the view that adverse claimant failed to adduce sufficient evidence to nullify the prior claims of respondent. Stated differently, the evidence submitted are not sufficient to destroy the prima facie character of the sworn declarations of location of respondent's mining claims which were duly registered on the date herein before stated. Thus "A location notice certificate or statement when recorded is prima facie evidence of all the facts the statute requires it to contain and which were sufficiently set forth" (40 C.J. pp. 811-812) and constitute notice to all persons and to the whole world of the contents of the same (Sec. 56 of the Mining Act, as amended).

It is, therefore, pertinent to quote hereunder Sections 28(d) and 60 of the Mining Act, as amended, as well as Section 1 of Presidential Decree No. 99-A:

"SEC. 28 - No Prospecting shall be Allowed:

(d) - In lands which have been located for mining leases by other prospectors under the provisions of this Act."

"SEC. 60. - No valid mining claim or any part thereof, may be located by others until the original locator or his successors in interest abandons the claim or forfeits his rights on the same under the provisions of this Act."

"SEC. 1 - Whenever there is any conflict between claim owners over any mining claims whether mineral or non-mineral, the locator of the claim who first registered his claim with the proper mining registrar, notwithstanding any defect in form or technicality, shall have the exclusive right to possess, exploit, explore, develop and operate such mining claims. x x x "

In the light of the aforementioned provisions of law applicable on the matter, and in view of our findings, earlier discussed, the subsequent mining claims of adverse claimant insofar as they conflict the prior claims of respondent are hereby declared null and void.

On the other hand, it is also our view that respondent failed to adduce sufficient evidence to prove that the prior claim of adverse claimant (Master VII Fr.) is null and void. Considering that this mining claim is prior in point of location and registration, it follows that this claim will have to prevail over that of respondent. For the same reason, therefore, that the subsequent claims of adverse claimant were declared null and void insofar as they conflict with the prior claims of respondent, the mining claims of respondent insofar as they conflict with "Master VII Fr." claim of adverse claimant are likewise declared null and void." (Decision, Director of Mines; Rollo, pp. 157-160).

As earlier stated the above findings, although reversed by the Minister of Natural Resources, were affirmed by the Office of the President.

However, petitioner would have this Court look into the said findings because of the open divergence of views and findings by the adjudicating authorities in this mining conflict involving highly contentious issues which warrant appellate review (Rollo, p. 18).

This Court has repeatedly ruled that 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 (L-21588 - Atlas Development and Acceptance Corp. v. Gozon, etc. et al., 64 O.G. 11511 [1967]), where the procedure which led to factual findings is irregular; when palpable errors are committed; or when a grave abuse of discretion, arbitrariness, or capriciousness is mani-fest (Ateneo de Manila University v. CA, 145 SCRA 100-101 [1986]; International Hardwood and Veneer Co., of the Philip-pines v. Leogardo, 117 SCRA 967; Baguio Country Club Corpora-tion v. National Labor Relations Commission, 118 SCRA 557; Sichangco v. Commissioner of Immigration, 94 SCRA 61; and Eusebio v. Sociedad Agricola de Balarin, 16 SCRA 569).

A careful study of the records shows that none of the above circumstances is present in the case at bar, which would justify the overturning of the findings of fact of the Director of Mines which were affirmed by the Office of the President. On the contrary, in accordance with the prevailing principle that "in reviewing administrative decisions, the reviewing Court cannot reexamine the sufficiency of the evidence as if originally instituted therein, and receive additional evidence, that was not submitted to the administrative agency concerned", the findings of fact in this case must be respected. As ruled by the Court, they will not be disturbed so long as they are supported by substantial evidence, even if not overwhelming or preponderant (Police Commission v. Lood, supra).

PREMISES CONSIDERED, this petition is hereby DENIED, and the assailed decision of the Office of the President, is hereby AFFIRMED.

SO ORDERED.

Teehankee, C.J., Narvasa, and Cruz, JJ., concur.
Gancayco, J., on leave.

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