

GREENHILLS MINING COMPANY, PETITIONER, VS. OFFICE OF THE PRESIDENT, MINISTER OF NATURAL RESOURCES, DIRECTOR OF THE BUREAU OF MINES AND GEO-SCIENCES, AND GREEN VALLEY COMPANY, RE...

G.R. No. 75962. June 30, 1988

Ponente: YAP, C.J.

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YAP, C.J.:

The instant petition seeks the review of (a) the decision dated July 8, 1986 issued by respondent Office of the President and signed by Deputy Executive Secretary Fulgencio S. Factoran, Jr., declaring all mining claims located and registered within the Southern Zambales Forest Reserve as null and void and granting private respondent Green Valley Company preferential right to possess, exploit, develop and operate the area covered by its exploration permit, and (b) the order dated September 10, 1986 denying petitioner's motion for reconsideration.

The facts are as follows:

The petition involves a conflict of Greenhills mining claims and the exploration permit of Green Valley over an area within the Southern Zambales Forest Reserve and within the same mineral land.

Mining claims of different claimowners were previously located and registered with the office of the Mining Recorder at Iba, Zambales, in 1933 and 1934 under the provisions of the Philippine Bill of 1902. However, for failure to pursue their claims and to perform annual assessment works, the claims were considered abandoned.

On January 18, 1956, then President Ramon Magsaysay issued Proclamation No. 245 establishing the Southern Zambales Forest Reserve (hereinafter called "Reservation" for brevity) with an area of 37,000 hectares embracing the municipalities of San Marcelino and Castillejos for soil protection, timber production, and other forest purposes subject to existing private rights.

In 1970 and 1971, Greenhills relocated the previously abandoned mining claims of the claimowners inside the reservation. It executed certificates or declaration of location (DOL) covering 113 claims and registered them with the office of the Mining Recorder. Lode Lease Applications (LLAs) on the 113 claims were later filed with the Bureau of Mines. Boundary survey plans or returns for the 113 claims were submitted and approved by the Mines Director on October 27, 1971, and together with lease applications they were published in the Official Gazette and in newspapers of general circulation.

On September 5, 1975, Greenhills filed with the Bureau of Forest Development (BFD for brevity) an application for prospecting permit (Prospecting Permit No. 354-03079) covering 1,296 hectares within the reservation, which was granted by the BFD Director on January 5, 1978 to expire six months thereafter or on June 5, 1978.

On March 1, 1979 Green Valley applied with BFD for a prospecting permit over 4,800 hectares also within the reservation. BFD granted the permit (Prospecting Permit No. 349-03179) to expire on August 31, 1979. It was

extended to January 31, 1980.

On July 19, 1979 Green Valley filed with the Bureau of Mines and Geo-Sciences (BMGS for brevity) an application for exploration permit over the same area covered by its prospecting permit, as well as additional areas covered by prospecting permits issued to Concepcion Lomotan, Dolores Montilla and Asuncion Caguios.

The application was referred to the BMGS Mineral Lands and Topographic Survey Division (MLTSD) which upon verification submitted reports dated August 17, 1979 and October 4, 1979 with the finding that the areas applied for by Green Valley were in conflict with the Greenhills group of claims.

In another report dated September 10, 1979, the Mineral Resources Administrative Division also of the Bureau of Mines commented that Green Valley's exploration permit may be given due course contending that all mining claims in areas within the reserve are null and void pursuant to Section 28 (a), Commonwealth Act No. 137.[1]

On October 16 and November 29, 1979, respectively, Green Valley's exploration permits (Exploration Permit Nos. 79 and 80) covering 5,208.96 hectares were approved.

Aggrieved, Greenhills filed separate letter—protests with the BFD and BMGS asking for the cancellation of Green Valley's prospecting and exploration permits.

In answer to Greenhills' protest, Green Valley countered that the protest had become moot and academic and it has no factual and legal basis since the alleged prospecting Permit No. 354-03079 of Greenhills Mining Co., which was the basis of its protest had long expired and at the time Green Valley Co. applied for and was issued Prospecting Permit No. 439-83179, the area was open for registration; that said prospecting permit had been replaced by Exploration Permit Nos. 79 and 80 issued by the Bureau of Mines and Geo-Sciences on October 16, 1979 and November 29, 1979, respectively; that the Bureau of Forestry was no longer the proper forum; that the subject matter of the protest concerned the validity of mining claims and should be filed with the proper forum

Supporting Greenhills' protest, Lepanto Consolidated Mining Co, which operates Greenhills Mining claims in its letters dated May 4 and May 20, 1981 manifested that the mining claims of Greenhills were excluded from Green Valley's prospecting permit for the reasons that: (1) the areas covered by the mining claims of Greenhills were previously covered by patentable mining claims duly located and registered by different mining claimowners in 1933 and 1934 under the Philippine Bill of 1902; (2) that pursuant to the ruling of the Supreme Court in *McDaniel vs. Apacible*,[2] reservation of public lands cannot be made to include prior perfected mining locations and therefore the areas covered by Greenhills mining claims should be deemed segregated from the mass of the public domain which were open to relocation and registration; (3) that Greenhills mining claims had been surveyed and survey plans approved and the lease applications published in 1971 and 1973.

On June 5, 1981, the Director of the BFD issued an order directing amendment of Green Valley's prospecting permit to exclude areas previously located and registered patentable mining claims as appearing in a sketch plan issued by the BMGS.

In a letter dated June 9, 1981 to the BMGS, Greenhills reiterated its request to exclude from Green Valley's exploration permit area covered by its mining claims. On June 11, 1981, the Director of the Bureau of Mines issued the following order, the dispositive portion of which read:

"PREMISES CONSIDERED, Exploration Permit No. 79 issued in favor of Green Valley Company on October 16, 1979 should be, as hereby it is, AMENDED to exclude therefrom the area covered by previously located and registered patentable mining claims as appearing in the sketch plan, likewise made integral part of this Order."

Against the BFD and the BMGS orders, Green Valley filed an appeal to the Ministry of Natural Resources (MNR).

On July 23, 1981, the MNR held that since the cases involved the determination of the mining rights of the parties concerned over the disputed area, the investigation and resolution of these issues were within the original jurisdiction of the Bureau of Mines and Geo-Sciences. Accordingly, it set aside the order of BFD dated June 5, 1981 and the order of BMGS dated June 11, 1981.

Unsatisfied, Green Valley filed an appeal with the Office of the President assailing MNR's refusal to rule on the validity of the mining claims of Greenhills. It faults MNR for remanding the case to the Bureau of Mines in deference to the latter's original jurisdiction to resolve and decide the mining rights of the parties and to investigate and determine if there was any conflict or overlapping over the parties' mining claims/permit.

On July 6, 1986, the Office of the President rendered the decision in question, the dispositive portion of which *inter alia* read as follows:

"PREMISES CONSIDERED, the order of the Minister of Natural Resources dated July 23, 1981, is hereby affirmed.

"Further, all mining claims within the Southern Zambales Forest Reserve located and registered by the Greenhills Mining Company in violation of section 28(a) of C.A. No. 137, as amended, are hereby declared null and void. The Green Valley Company is given the preferential right to possess, exploit, explore, develop and operate the areas within the Southern Zambales Forest Reserve covered by Exploration Permit No. 79 issued in its name on October 16, 1979."

A motion to reconsider the decision filed by Greenhills was denied on September 10, 1986. Hence, the present petition.

Petitioner alleges that: (a) mining claims located under the Philippine Bill of 1902 which were later on abandoned or forfeited by the original locators could be the subject of relocation by another person; (b) the reservation of public lands such as the Southern Zambales Forest Reserve established under Proclamation No. 245 dated January 18, 1956, cannot be deemed to include areas previously covered by a valid mining location; (c) the Bureau of Mines and Geo-Sciences, basing its plottings on certified declaration of locations filed in 1933 and 1934, correctly ordered the exclusion from the Exploration Permit No. 79 of respondent Green Valley the areas covered by previously located and registered patentable mining claims; (d) Greenhills has valid claims being the relocater of the 1933 and 1934 patentable mining claims; (e) questions concerning the validity of petitioner Greenhills' mining claims are already barred by statute; and (f) the "Exploration Agreement with assignable Option to Purchase" executed by and between respondent Green Valley Company and Gold Fields Asia Limited violates Section 9, Article XIV of the 1973 Constitution, since the agreement is not a "service contract" within the contemplation of said constitutional provision. Petitioner prays, among other things, that a preliminary injunction issue enjoining respondent Director of the Bureau of Mines and Geo-Sciences from acting on the application for renewal of the exploration permit of respondent Green Valley.

The Court, in its resolution dated November 12, 1986, issued a temporary restraining order enjoining respondent Director of Bureau of Mines and Geo-Sciences from acting on the application for the renewal of the exploration permit of respondent Green Valley Company covering the areas involved.

The established doctrine that where there is no showing of fraud, collusion, arbitrariness, illegality, imposition or mistake on the part of the Office of the President or a department head (such as the Secretary of Agriculture and Natural Resources in the present case), in rendering their questioned decisions or of a total lack of substantial

evidence to support the same, such administrative decisions are entitled to great weight and respect and will not be interfered with by the courts.[3]

In upholding Green Valley's prior right over the mining areas subject of conflicting claims, the Office of the President rightly relied on the provisions of Section 28(a) of Commonwealth Act No. 137 (now Section 13(a), Presidential Decree No. 463). Under this provision, and under the regulations implementing it, it is required that the lessor shall, first, secure a prospecting permit from the BFD and second, obtain an exploration permit in case of discovery of minerals in the area or when there is strong proof of mineralization. The records show that the petitioner's mining claims were backed up by no prospecting permit.

On the other hand, Breen Valley had fully complied with such requirements, for which its claims should be declared superior.

As a general rule, the findings of government agencies with respect to the construction of statutes the implementation of which has been reposed in them, are controlling on the Court.

The cases of *McDaniel v. Apacible*,^[4] *Gold Creek Mining Corporation v. Rodriguez*,^[5] and *Salacot Mining Company v. Abadilla*,^[6] relied upon by the petitioner, and where we held that the appropriation of a mineral land pursuant to a valid claim segregates it from the public domain, are not in point. The petitioner assumes that the claims of other claimants recorded in 1933 and 1934 were still valid when the Southern Zambales Forest Reservation was established in 1956. According to the Office of the President, however, the original claimowners had failed to perform annual development work on the claims in violation of the provisions of Section 36 of the Philippine Bill of 1902. As a consequence, the area became "open to relocation... as if no location of the same had ever been made."^[7] Conversely, assuming that the government lost the property when the petitioner, or the original claimowners staked their claims in 1933 and 1934, it reverted to the public dominion upon abandonment thereof. Accordingly, when President Magsaysay established the Southern Zambales Forest Reserve in 1956, the areas covered by the said abandoned claims already formed part of the public domain. The petitioner cannot, moreover, claim privity of title with the owners of the prior locations. Such prior locations had been abandoned, or at most, forfeited, and the petitioner's own location cannot be considered a continuation thereof.

WHEREFORE, the petition is DISMISSED. The temporary restraining order issued on November 12, 1986 is hereby lifted. No pronouncement as to costs.

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

[1] Now Section 13 of PD 463, dated May 17, 1974, which provides inter alia that no prospecting permit shall be allowed in mineral and other reservations proclaimed closed to mining locations except by the government.

[2] 42 Phil. 749.

[3] *Lacuesta v. Herrera*, G.R. No. 33646, January 28, 1975, 62 SCRA 115.

[4] 42 Phil. 749 (1922).

[5] 66 Phil. 259 (1938).

[6] 67 Phil. 110 (1939).

[7] Philippine Bill of 1902, Sec. 36.

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