

ANGELINA P. SANTIAGO, PETITIONER, VS. THE HONORABLE DEPUTY EXECUTIVE SECRETARY AND HI CEMENT CORPORATION, RESPONDENTS.

G.R. No. 78163, December 10, 1990

Ponente: PARAS, J.

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PARAS, J.:

This is a special civil action for certiorari and prohibition, with preliminary injunction, to review and annul the decision of the respondent Deputy Executive Secretary* dated September 1, 1986 in O.P. Case No. 3274 (MNR Case No. 6376), entitled "Hi-Cement Corporation vs. Angelina P. Santiago and Philippine Development and Industrial Corporation" setting aside the decision of the Ministry of Natural Resources** (now Department of Environment and Natural Resources) dated March 26, 1986 and reinstating the decision of the Bureau of Mines and Geo-Sciences,*** dated May 17, which cancelled Quarry License No. 37 of petitioner and ordered her and/or her operator to immediately vacate and turn over the possession of the mining area to the respondent Hi-Cement Corporation.

As gathered from the records, the antecedent facts are as follows:

Hi-Cement Corporation (Hi-Cement, for short) is a manufacturer of cement with plant located at Bo. Matiktik, Norzagaray, Bulacan. For its operation, Hi-Cement leased and acquired several placer mining claims from the Bureau of Mines and Geo-Sciences (BMGS), namely Mining Lease Contract (MLC) Nos. V-78,85,90,150,261, and 269. MLC V-90 covers mining claim Red Star VIII, Red Star IX and Hunter I in the name of Red Star Association. Said mining claims were transferred to Hi-Cement by virtue of a deed of assignment dated December 13, 1965 duly approved by the Director of BMGS.

On February 24, 1984, BMGS issued Quarry License (QL) No. 37 in the name of Angelina P. Santiago, petitioner herein, covering 19.5 hectares which are entirely within the mining claims of respondent Hi-Cement despite the fact that its lease contract has not been declared abandoned or cancelled by the BMGS (Rollo, p. 55). On April 10, 1984, Santiago entered into an Operating Agreement with the Philippine Development and Industrial Corporation (PDIC).

Meanwhile, the Director of BMGS, in a letter dated April 3, 1984, informed Nicolas Katigbak, Senior Vice-president of Hi-Cement, that per field verification conducted, Hi-Cement has complied with the annual work obligation requirements vis-a-vis MLC V-90 and that the BMGS recognizes the validity of Hi-Cement mining lease contracts. Nevertheless, the Director recognized as valid the intervening rights prior to the field verification, although the same would no longer be subject to renewal (Rollo, p. 89).

On October 20, 1984, Hi-Cement filed a petition with the BMGS, amended on January 28, 1985, praying for the revocation of QL No. 37 on the following grounds:

1. Hi-Cement is the lessee and surface titled owner of the area covered by QL No. 37 of Santiago (Rollo, p. 27);

2. Hi-Cement's mining claims covered under MLC V--90 has never been declared abandoned nor cancelled (Rollo, p. 29);
3. That under Sec. 63, PD 463 and its implementing rules and regulations, areas covered by valid and existing mining lease shall not be subject to any quarry permit or license (Ibid., p. 28);
4. That Santiago has misled the BMGS into issuing a quarry license by misrepresenting the area to be public and (Rollo, p. 30).

In her answer to the above petition, Santiago alleged, among others, that the failure of Hi-Cement to file Affidavits of Annual Work Obligations (AAWO) for more than two (2) consecutive years constituted automatic abandonment of the mining claims under Sec. 27 of PD 463, as amended (Rollo, p. 36) and that Hi- Cement's title over the disputed area is void as it covers mineral lands (Ibid., p. 53).

On May 17, 1985, the Officer-In-Charge (OIC) of the BMGS, Benjamin Gonzales, issued a decision, the dispositive portion of which is as follows:

"VIEWED IN THE LIGHT OF THE FOREGOING, this office, finding the instant petition of HI-CEMENT Corporation to be well-founded, the same is hereby granted. Accordingly, Quarry License No. 37 of Respondent Angelina Santiago is hereby declared cancelled and she and/or her operator is ordered to immediately vacate and turn over the possession of the mining area subject of this case to the petitioner." (Rollo, p. 63)

On July 1, 1985, Santiago filed an appeal with the then Ministry of Natural Resources, alleging that:

1. The OIC erred in rendering and signing the aforesaid decision considering that he has no legal authority to do so (Rollo, p. 66).
2. The OIC erred in not holding that 'Red Star VIII' under MLC V-90 was not automatically abandoned for failure of Hi-Cement to comply with the filing of the AAWP for more than two consecutive years (Rollo, p. 72).
3. The OIC, erred in stating that Santiago committed misrepresentation or deception fatal enough to cause the cancellation of her QL No. 37 (Rollo, p. 81).

On March 26, 1986, the Minister of Natural Resources issued a decision, the dispositive portion of which reads:

'IN THE LIGHT OF ALL THE FOREGOING CONSIDERATIONS, the decision dated May 17, 1985 of the OIC of the Bureau of Mines and Geo-Sciences should be, as hereby it is, SET ASIDE. Quarry License No. 37 of Angelina P. Santiago is hereby ordered REINSTATED and be entered in the records as Q.P. or quarry permit subject to renewal upon compliance with the requirements of law, and the area covered thereby excluded from the coverage of MLC No. V-90 of HI-CEMENT Corporation.

SO ORDERED. (Rollo, P. 102)

From said decision, Hi-Cement filed an appeal with the Office of the President, dated May 19, 1986, assigning the following errors, to wit:

1. The Hon. Minister of Natural Resources erred in declaring as null and void the Decision of the OIC of the BMGS;
2. The Hon. Minister of Natural Resources erred in declaring as automatically abandoned the Placer Lease Contract of Hi-Cement Corporation for failure to file proof of annual work obligation despite lessee having performed the work obligation required, and despite the fact that no previous hearing was even conducted in accordance with Section 44 of the Consolidated Mines Administrative Order, implementing PD 463; and

3. The Hon. Minister of Natural Resources erred in not taking into consideration the Transfer Certificate of Title of Hi-Cement Corporation, as well as the Supreme Court and Court of Appeals decisions as proof of the misrepresentation of Santiago. (Rollo, p. 190).

On September 1, 1986, the then Deputy Executive Secretary rendered a decision, holding thus:

"IN VIEW OF ALL THE FOREGOING, the decision of the Ministry of Natural Resources, dated March 26, 1986 is hereby SET ASIDE, and this office hereby REINSTATES the decision of the Bureau of Mines and Geo-Sciences dated May 17, 1985.

SO ORDERED." (Rollo, p. 106)

On November 8, 1986, Santiago filed a motion for reconsideration of the aforesaid decision (Rollo, p. 111) but was denied by the Deputy Executive Secretary not only because it was filed late but her motion contained mere reiterations of the matters already considered and found to be without merit (Rollo, p. 117).

Hence, the instant petition.

The issues to be resolved in this case are as follows:

1. Whether or not private respondent automatically abandoned its mining claim on MLC V-90 by reason of its failure to file affidavit of annual work obligations for two years, as required by Section 27 of PD 463, as amended.
2. Whether or not QL No. 37 of Santiago is a valid intervening right that prevails over the mining claim of private respondent.
3. Whether or not the decision issued by the OIC of BMGS dated May 17, 1985 is valid.

The petition is devoid of merit.

I

Petitioner contends that Hi-Cement abandoned its mining claim over MLC V-90 when it failed to file affidavit of annual work obligations (AAWO) as required by Sec. 27, PD 463, as amended, which states:

"Sec. 27. Annual Work Obligations. - The claim-owner shall submit proof of compliance with the annual work obligations by filing an affidavit therefor and the statement of expenditures and technical report in the prescribed form in support thereof with the Mines Regional Officer concerned within one hundred twenty days from the end of the year in which the work obligation is required: Provided, That failure of the claim-owner to comply therewith for two (2) consecutive years shall constitute automatic abandonment of the mining claim: Provided, further, That, if it is found upon field verification that no such work was actually done on the mining claim, the claim owner/lessee shall automatically lose all his right thereto notwithstanding submission of the aforesaid documents: Provided, finally, That the Director, in cases of unstable peace and order conditions and/or involvement in mining conflicts may grant further extensions."

The argument is untenable.

Contrary to petitioner's claim, there is no rule of automatic abandonment with respect to mining claims for failure to file AAWO. Under the Consolidated Mines Administrative Order (CMAO), implementing PD 463, as amended, the rule that has been consistently applied is that it is the failure to perform the required assessment work, not the failure to file the AAWO that gives rise to abandonment. Interpreted within the context of PD 1902, the last amending decree of PD 463, it is intended, among others, to accelerate the development of our natural resources and to accelerate mineral productions, abandonment under the aforequoted Sec. 27 refers to the failure

to perform work obligations which in turn is one of the grounds for the cancellation of the lease contract (Sec. 43 (a), Consolidated Mines Administrative Order, implementing PD 463).

The question of whether or not the failure to submit AAWO for more than two (2) consecutive years constitutes abandonment as ground for cancellation of a mining lease contract has been the subject matter of many cases in the Ministry of Natural Resources (now Department of Environment and Natural Resources). Public respondent had made the following significant findings, to quote:

"In a number of cases, the MNR answered the question in the negative. (Sec. 1, *Malayan Integrated Industries Corporation v. Apo Cement Corporation*; 2. "In the matter of the denial by the Director of Mines Temporary Permit Application No. V-2780 of the Republic Glass Corporation" and 3. "In Re: Denial of Mines Temporary Permit Application No. V-2340, *Bonanza Consolidated Mines, Inc., Appellant*", docketed as MNR Case Nos. 5036, 4386, 4459, respectively). As there explained, it is the continued failure to perform the annual work obligations, NOT the failure to file AAWO, that gives rise to abandonment as ground for cancellation of a mining lease, contract; that compliance with AAWO requirements, not being related to the essence of the acts to be performed, is a matter of convenience rather than substance; and that non-submission of AAWO does not preclude the lessee from proving performance of such working obligation in some other way." (Rollo, p. 106; Decision, O.P., p. 6).

Moreover, before any mining lease contract is cancelled, Consolidated Mines Administrative Order, Section 44 thereof, requires notice and hearing. Said BMGS OIC Director Gonzales:

"The provision of Sec. 44 of Consolidated Mines Administrative Order (CMAO) specifically provides for the necessity of the cancellation of the Mining Lease Contract before the same can be considered open to relocation. And in cases of non-compliance with the filing of AAWO, it has been a long consistent policy of this office to first require field verification before any recommendation for cancellation be endorsed to the Ministry of Natural Resources (MNR). But the field verification reveals that cancellation is not in order and neither can it be said that the verification conducted was improperly made." (Rollo, p. 107)

It is significant to note that the then Minister of Natural Resources Ernesto Maceda reiterated the Ministry's previous ruling in his decision dated April 10, 1986, in MNR Case No. 6300, entitled "RE PLACER LEASE APPLICATION NO. V-3895 OF CONTINENTAL MARBLE CORPORATION." To quote:

"This office has been consistent on its ruling that it is the continued failure to undertake the work obligation that causes a mining claim to lapse. The affidavit (of annual work obligation) is merely a prima facie proof of performance of said work obligations, and the omission to submit said affidavit raised only a disputable presumption that no work had been done and shift upon the claim owner the burden of proof to show otherwise. The claim-owner is not precluded from making proof of performance in some other way. (*Malayan Integrated Industries v. Apo Cement Corporation, et al.* MNR Case No. 5036, July 6, 1982, *Republic Glass Corporation*, MNR Case 4336 and *Sto. Rosario Fertilizer Corporation*, MNR Case No. 4369). These decided cases fall squarely with the facts of the instant case." (Rollo, p. 195)

The aforesaid decision was penned after the then Minister Ernesto Maceda overturned the decision of the BMGS in the case of *Hi-Cement v. Angelina Santiago*. As can be seen therefore, it has always been an administrative policy that the requirement to file AAWO is a matter of convenience rather than substance as it is not related to the essence of the acts performed. These administrative policies enacted by administrative bodies to interpret the law have the force and law and entitled to great respect (*Tayug v. Central Bank*, G.R. 46158, Nov. 28, 1986; *Warren Manufacturing Workers Union v. Bureau of Labor Relations*, 159 SCRA 387 [1988]). It is the general policy of this Court to sustain the decision of administrative authorities not only on the basis of the doctrine of separation of powers but also for their presumed knowledgeability and even expertise in the laws they are entrusted to enforce (*Cuerdo v. COA*, 166 SCRA 657 [1988]).

Consequently, Hi-Cement has never abandoned its mining claim. It may not have filed the AAWO but it has actually performed the annual work obligations as found by the BMGS. Administrative findings of facts are sufficient if supported by substantial evidence on record and as a general rule, actions of administrative agencies need not be disturbed by the judicial department (*Manahan v. People*, G.R. 37010, Nov. 7, 1988; *Gordon v. Veridiano*, 167 SCRA 51 [1988]; *Mapa v. Arroyo* G.R. 78585, July 5, 1989; *Needle Queen Corporation v. Nicolas, et al.* G.R. 60741-45, Dec. 22, 1989). This court finds no reason to disturb such findings.

II

Petitioner insists that her Quarry License No. 37 is a valid intervening right that prevails over the mining claims of Hi-Cement as its claims were automatically abandoned without need for any proceeding or declaration for cancellation.

Given the fact that Hi-Cements Mining Lease Contract has never been cancelled nor its mining claim abandoned, this Court rules that Santiago can not have any valid intervening right over the mining claims of the respondent for the following reasons. First, the license of the respondent covers an area which is closed to mining location under Sec. 13, PD 463, as amended.

"Sec. 13. Areas Closed to Mining Location. - No prospecting and exploration shall be allowed:

x x x

"C. In lands covered by valid and subsisting mining claims located, and leases acquired, under previous mining laws and in accordance with the provisions of this Decree."

Second, Sec. 63 of the Consolidated Mines Administrative Order categorically states that:

"xxx. Areas covered by valid and subsisting mining claims and mining leases shall not be the subject of a quarry permit or license."

Hence, it is only when the mining lease contract has been cancelled or terminated in the manner provided by law that a leased mining area may be open to location and lease by other qualified persons. Since the mining lease contract of Hi-Cement over the area covered by the quarry license of petitioner is still valid and existing at the time the license was obtained by the petitioner, her license is null and void and, therefore, cannot be considered as a valid intervening right that prevails over the mining claim of Hi-Cement.

Third, both the BMGS and the public respondent found the petitioner guilty of misrepresentation. Said the public respondent:

x x x Santiago misrepresented in her application for a quarry license that the area applied for was a public land when, in reality, it is covered by TCT No. T-62628 in the name of Hi-Cement. In this regard, the provisions of PD 512 require the locator or prospector before entering a private land to give prior notification to the landowner who is thereby entitled to compensation and royalty." (Rollo, p. 110)

Such finding is binding on this Court. Findings of the administrative agency on matters falling within its competence will not be disturbed by the courts, especially with respect to factual findings, they are accorded respect if not finality, because of the special knowledge and expertise gained by the tribunals from handling specific matters falling under their jurisdiction (*Mapa v. Arroyo*, G.R. 78585, July 5, 1989; *Needle Queen Corp. v. Nicolas, et al.*, supra).

Section 43 of the Consolidated Mines Administrative Order has provided a ground for cancellation of a Mining Lease Contract among others, as follows:

"1.) Any falsehood in the statements in the application or support thereof, which may alter, change or affect substantially the facts set in said statements."

Petitioner's QL No. 37, therefore, cannot be a valid intervening right over the mining claims of Hi-Cement.

III

Petitioner assails the decision rendered by OIC Benjamin A. Gonzales of the BGMS. She claims that under Special Order No. 86 dated March 19, 1985 which states:

"Except appointments and matters involving policy, the Assistant director or the Officer-in-charge of his office shall sign on official papers; xxx" (p. 18, Rollo)

the jurisdiction to exercise quasi-judicial authority to resolve mining controversies lies solely with the Director of BGMS. Hence, she alleges that the decision of May 17, 1985 is null and void for want of authority (Rollo, pp. 228-230).

The argument is untenable.

What is actually excluded in the aforesaid order is the formulation of new policies of the BGMS. OIC Gonzales did not formulate new policies. He merely upheld and reiterated the long and consistent policy of the Bureau in similar disputes previously passed upon not only by the Director of Mines but also by the Secretary of Environment and Natural Resources based on the applicable law. Besides, as the public respondent said, "the more important consideration is that the decision correctly disposes of the controversy" (Rollo, p. 110).

Hence, the decision issued by the OIC is valid.

PREMISES CONSIDERED, the instant petition is hereby DISMISSED for lack of merit and the decision of the Deputy Executive Secretary, dated September 1, 1986, is hereby AFFIRMED. With costs against the petitioner.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

* Penned by the then Deputy Executive Secretary Fulgencio S. Factoran.

** Penned by the then Minister (now Senator) Ernesto Maceda.

*** Penned by the then OIC of BMGS Benjamin S. Gonzales.

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