

EARTH MINERALS EXPLORATION, INC., PETITIONER, VS. DEPUTY EXECUTIVE SECRETARY CATALINO MACARAIG, JR., OFFICE OF THE PRESIDENT, MALACANANG, MANILA, BUREAU OF MINES DIRECTOR BENJAM...*G.R. No. 78569. February 11, 1991*

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-78569/>**PARAS, J.:**

This is a petition for Certiorari and Prohibition with Preliminary Injunction seeking the reversal of the decision[1] dated June 27, 1986 and resolution[2] dated May 5, 1987 of the Deputy Executive Secretary in O.P. Case No. 3023. The decision and resolution set aside the orders of the Minister of Natural Resources and Director of Mines and Geo-Sciences dated November 7, 1985 rendered in MNR Case No. 6353 and July 23, 1985 rendered in Mines Sp. Case No. V-183, respectively, that upheld petitioner's action to cancel/rescind the mining contract dated September 11, 1980 between Zambales Chromite Mining Co., Inc. and private respondent Philzea Mining and Development Corporation.

The antecedent facts and the proceedings that spawned the instant case, are as follows:

Zambales Chromite Mining Co., Inc. (Zambales Chromite, for short) is the exclusive owner of ten (10) patentable chromite mining claims located in the Municipality of Sta. Cruz, Zambales. On September 11, 1980, Zambales Chromite, as claim-owner, on one hand, and Philzea Mining and Development Corporation (Philzea Mining, for short, herein private respondent) as operator, on the other, entered into a "Contract of Development, Exploitation and Productive Operation" on the ten (10) patentable mining claims (Annex "C", Rollo, p. 120). During the lifetime of such contract, Earth Minerals Exploration, Inc. (Earth Minerals, for short, herein petitioner) submitted a Letter of Intent on June 30, 1984 to Zambales Chromite whereby the former proposed and the latter agreed to operate the same mining area subject of the earlier agreement between Zambales Chromite and Philzea Mining (Annex "D", Rollo, p. 111). On August 10, 1984, Zambales Chromite and Earth Minerals concretized their aforementioned Letter of Intent when they entered into an "Operating Agreement" (Annex "E", Rollo, p. 112) for the latter to operate the same mining area. Consequently, the same mining property of Zambales Chromite became the subject of different agreements with two separate and distinct operators. On November 29, 1984, petitioner Earth Minerals filed with the Bureau of Mines and Geo-Sciences (BMGS, for short) a petition for cancellation of the contract between Zambales Chromite and Philzea Mining, pursuant to Section 7, P. D.1281 which provides, *inter alia*:

"Section 7. In addition to its regulatory and adjudicative functions over companies, partnerships or persons engaged in mining exploration, development and exploitation, the Bureau of Mines shall have original and exclusive jurisdiction to hear and decide cases involving:

"(a) a mining property subject of different agreements entered into by the claim holder thereof with several mining operators;

“(b) x x x x x x x x

“(c) cancellation and/or enforcement of mining contracts due to the refusal of the claimowner/operator to abide by the terms and conditions thereof.”

In its petition, Earth Minerals alleged, among others, that Philzea Mining committed grave and serious violations of the latter's contract with Zambales Chromite among which are: failure to produce the agreed volume of chromite ores; failure to pay ad valorem taxes; failure to put up assay buildings and offices, all resulting in the non-productivity and non-development of the mining area.

On December 10, 1984, Philzea Mining filed a motion to dismiss on the grounds that Earth Minerals is not the proper party in interest and that the petition lacks cause of action. The motion to dismiss was, however, denied by the BMGS in an order dated January 24, 1985 holding that "there appears some color of right" on Earth Minerals to initiate the petition for cancellation (Annex "G", Rollo, p. 120). A motion for reconsideration was filed but the same was denied by the BMGS in an order dated March 4, 1985. Thereafter, Philzea Mining elevated the case to then Ministry (now Department) of Natural Resources (MNR, for short) which in its order of April 23, 1985 dismissed the appeal for the reason that the order of the BMGS was an interlocutory order that could not be the proper subject of an appeal.

On May 2, 1985, Philzea Mining appealed to the Office of the President the order of MNR dated April 23, 1985. During the pendency thereof, Earth Minerals filed with the MNR a motion for execution of the MNR order of April 23, 1985.

On May 30, 1985, the MNR issued an order directing the BMGS to conduct the necessary investigation in order to hasten the development of the mining claims in question (Rollo, p. 93). In compliance therewith, the BMGS on June 7, 1985, ordered the private respondent Philzea Mining to file its answer to Earth Mineral's petition for rescission. Philzea Mining moved to reconsider but the motion was denied.

Philzea Mining did not submit its answer. Accordingly, the BMGS resolved the petition for rescission on the basis of documents submitted ex parte by herein petitioner. Finding that Philzea Mining grossly violated the terms and conditions of the mining contract between Philzea Mining and Zambales Chromite, the BMGS rendered a decision on July 23, 1985, cancelling said mining contract, the dispositive portion of which reads:

"In view of all the foregoing, this Office finds and so holds that the Operating Agreement dated September 11, 1980 executed by and between Zambales Chromite and Philzea Mining should be, as is hereby cancelled. Accordingly, respondent is hereby ordered to immediately vacate the mining area subject of the instant case and turn over the possession thereof to the claimowner and/or herein petitioner." (Annex "K", Rollo, p. 130).

Aggrieved by the decision of the BMGS, Philzea Mining, aside from filing a notice of appeal to the MNR on July 29, 1985, also filed a petition for certiorari with the then Intermediate Appellate Court (now Court of Appeals) on July 30, 1985, docketed as AC-G.R. Sp. No. 06715, to annul or set aside the decision of the BMGS.

On November 4, 1985, the Office of the President promulgated a decision dismissing the appeal of Philzea Mining from the decision of the MNR dated April 23, 1985, on the ground that an order denying a motion for reconsideration is interlocutory in nature and cannot be the subject of an appeal (Annex "L", Rollo, p. 137).

On November 7, 1985, the MNR, on the other hand, issued another order this time dismissing the appeal of Philzea Mining from the decision of the BMGS dated July 23, 1985.

On November 18, 1985, Philzea Mining appealed the aforementioned November 7, 1985 decision of the MNR to the Office of the President.

Meanwhile, on December 26, 1985, the then Intermediate Appellate Court dismissed the petition filed by Philzea Mining in AC-G.R. Sp. No. 06715.

Back to the appeal of Philzea Mining to the Office of the President, the disputed decision dated June 27, 1986 was issued by the then Deputy Executive Secretary Fulgencio Factoran, Jr., the dispositive portion of which reads:

"Wherefore, the orders of the Minister of Natural Resources and the Director of Mines and Geo-Sciences, dated November 7 and July 23, 1985, respectively, are hereby set aside." (Annex "A", Rollo, p. 92).

A motion for reconsideration dated July 12, 1986 (Annex "U", Rollo, p.190) was filed by petitioner Earth Minerals which, however, was denied by the then Deputy Executive Secretary Catalino Macaraig in his resolution dated May 5, 1987, which reads in part:

"Wherefore, the instant motion for reconsideration by appellee Earth Minerals is hereby denied for lack of merit and the Decision of this Office dated June 27, 1986 is hereby reiterated." (Annex "B", Rollo, p. 98).

Hence, this petition.

In the resolution of the Court dated July 1989, the Court resolved: (a) to give due course to the petition and (b) to require the parties to submit simultaneously their respective memoranda (Rollo, p. 382).

The principal issues in the case at hand are as follows: (a) whether or not the appeal of the private respondent Philzea Mining from the decision of the MNR dated November 7, 1985 to the Office of the President was made out of time and (b) whether or not the petitioner Earth Minerals is the proper party to seek cancellation of the operating agreement between Philzea Mining and Zambales Chromite.

The petitioner contends that the last day to appeal the decision of the MNR dated November 7, 1985 fell on November 16, 1985, that is five (5) days from the date of its receipt by the private respondent on November 11, 1985 and since the notice of appeal dated November 15, 1985 was filed on November 18, 1985, the appeal was taken beyond the five-day reglementary period.

Public respondent counters that the ground invoked by the petitioner is too technical in view of the fact that November 16, 1985 was a Saturday and the following day (November 17, 1985) was a Sunday.

The Court, in the case of *Atlas Consolidated Mining and Development Corporation v. Factoran, Jr.* (154 SCRA 49 [1987]) resolved the same issue in this wise:

"Saturday was observed as a legal holiday in the Office of the President pursuant to Sec. 29 of the Revised Administrative Code as amended.

"The same law provides:

"Sec. 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, the last day for doing the same, the act may be done on the next succeeding business day (*Gonzaga v. De David*, 110 Phil. 463 [1960]; *Calano v. Cruz*, 91 Phil. 247 [1957]; *Austria et al. v. Solicitor General*, 71 Phil. 288 [1941])."

In the case under consideration, as the next working day after November 16, 1985 was November 18, 1985 - a Monday, it is evident that the private respondent's appeal was filed on time.

Be that as it may, the private respondent's appeal within the reglementary period to the Office of the President

does not help them much in the instant case.

The public respondent argues that the petitioner Earth Minerals is not the proper party to file the petition for cancellation of the contract between Zambales Chromite and Philzea Mining citing Article 1311 of the Civil Code which provides that a contract takes effect only between the parties, their assigns and heirs.

The contention is untenable.

Indeed, a contract takes effect only between the parties who made it, and also their assigns and heirs, except in cases where the rights and obligations arising from the contract are not transmissible by their nature, or by stipulation or by provision of law (Article 1311, New Civil Code). Since a contract may be violated only by the parties thereto as against each other, in an action upon that contract, the real parties in interest, either as plaintiff or as defendant must be parties to said contract. In relation thereto, Article 1397 of the Civil Code lays the general rule that an action for the annulment of contracts can only be maintained by those who are bound either principally or subsidiarily by virtue thereof. The rule, however, admits of an exception. The Court, in *Teves v. People's Homesite and Housing Corporation* (23 SCRA 1141 [1968]) held that a person who is not obliged principally or subsidiarily in a contract may exercise an action for nullity of the contract if he is prejudiced in his rights with respect to one of the contracting parties, and can show the detriment which could positively result to him from the contract in which he had no intervention. This exception to the rule has been applied in *Banez v. CA* (59 SCRA 15 [1974]; *Development Bank of the Philippines v. CA*, 96 SCRA 342 [1980]; *Dilson Enterprises Inc. v. IAC*, 170 SCRA 676 [1989]).

Petitioner Earth Minerals seeks the cancellation of the contract between Zambales Chromite and Philzea Mining, not as a party to the contract but because his rights are prejudiced by the said contract. The prejudice and detriment to the rights and interest of petitioner stems from the continued existence of the contract between Zambales Chromite and private respondent Philzea Mining. Unless and until the contract between Zambales Chromite and Philzea Mining is cancelled, petitioner's contract with the former involving the same mining area cannot be in effect and it cannot perform its own obligations and derive benefits under its contract. The Director of Mines and Geo-Sciences in his order denying Philzea Mining's motion to dismiss the petition for cancellation of the operating agreement between Philzea Mining and Zambales Chromite stated:

"From the documentary evidence submitted by the petitioner, i.e., the Letter of Intent and Operating Agreement between Zambales Chromite and Earth Minerals, it may be gleaned that, at least, there appears some color of right on the part of petitioner to request for cancellation/rescission of the contract dated September 11, 1980 between Zambales Chromite and Philzea Mining."

Moreover, the record amply shows that the decision of the Director of Mines as affirmed by the Minister of Natural Resources was supported by substantial evidence. As found by the Bureau of Mines in its decision dated July 23, 1985, the violations committed by Philzea Mining were not only violations of its operating agreement with Zambales Chromite but of mining laws as well.

In affirming the abovementioned decision, the Minister of Natural Resources made the following statements:

"Moreover, the appellant by filing a Manifestation on October 1, 1985 wherein it prayed that the decision appealed from be reviewed *motu proprio* by this Office, is an implied admission that it has no justification whether in fact or in law, for its appeal; otherwise, it could have specified them in the appeal memorandum that it is bound by law to file." (p. 142, Rollo)

In such cases, the Court has uniformly held that, it is sufficient that administrative findings of fact are supported by evidence (*Ang Tibay v. CIR*, 69 Phil. 635 [1940]). Still in later cases, the Court continued that such finding will not be disturbed so long as they are supported by substantial evidence, even if not overwhelming or

preponderant (*Police Commission v. Lood*, 162 SCRA 762 [1984]; *Atlas Consolidated v. Factoran, Jr.*, supra).

The decision, therefore, of the Deputy Executive Secretary reversing the decisions of the Minister of Natural Resources and Director of Mines cannot be sustained. This is in line with the pronouncement of the Court that the factual findings of the Secretary should be respected in the absence of any illegality, error of law, fraud or imposition, none of which was proved by the public and private respondents (*Heirs of Santiago Pastoral v. Secretary of Public Works and Highways*, 162 SCRA 619 [1988]).

Regarding the issue of forum shopping, the records show that on July 29, 1985, after Philzea Mining had filed its notice of appeal to MNR from the July 23, 1985 decision of the BMGS, it also filed a petition for certiorari with the Intermediate Appellate Court on July 30, 1985, docketed as AC-G.R. Sp. No. 06715 praying for the annulment of the same July 23, 1985 decision of the BMGS. When the MNR rendered its November 7, 1985 decision affirming the July 23, 1985 decision of the BMGS, private respondent Philzea Mining, notwithstanding the pendency of its petition for certiorari with the Intermediate Appellate Court, filed its notice of appeal to the Office of the President from the said decision of the MNR stating therein that its appeal was "without prejudice to the pending petition with the Intermediate Appellate Court docketed as AC-G.R. Sp. No.-06715" (Rollo, p. 80).

The foregoing facts show a case of forum shopping.

"There is forum-shopping whenever, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or certiorari) in another. The principle applies not only with respect to suits filed in the courts but also in connection with litigations commenced in the courts while an administrative proceeding is pending, as in this case, in order to defeat administrative processes and in anticipation of an unfavorable court ruling (*Crisostomo v. Securities and Exchange Commission*, G.R. Nos. 89095 and 89555, November 6, 1989).

One last point, the motion to dismiss filed by Philzea before this Court on September 5, 1989, on the ground that the petition has become moot and academic in view of the expiration on August 10, 1989 of the five (5) year term contract between Zambales Chromite and Earth Minerals executed on August 10, 1984 should be denied.

The contract between Zambales Chromite and Earth Minerals provides, inter alia:

"5.

Others.

"A.

During the existence of this agreement, Earth Minerals is free to look for, and negotiate with, an interested party who is financially capable of operating the CLAIMS on a much bigger scale x x x and in connection therewith, may assign this agreement in favor of said party; x x x."

In view of such provision, Earth Minerals and Zambales Chromite jointly entered into a "Mining Agreement", dated June 16, 1988, with Acoje Mining Co., Inc., the salient provisions of which reads:

"ZCMC and EMEI jointly desire to protect Acoje from any and all claims (present or future) against it (Acoje) with respect the title and/or possession of the PROPERTIES and this protection against all claims of third parties or entities during the life of this Mining Agreement is one of the main considerations why Acoje agreed to enter into this Agreement.

"Sec. 1. x x x provided, however, that EMEI obligates itself to continue representing its interest as party in the aforesaid cases pending with the Supreme Court." (Annex '1', Rollo, p. 397).

The mining agreement between Zambales Chromite and Earth Minerals, on one hand, and Acoje Mining, on the other, expressly recognizes the pendency of the case at bar, so that herein petitioner Earth Minerals has the right to pursue the case to its logical conclusion, and during the effectivity of such Mining Agreement, both Earth Minerals and Zambales Chromite are under obligation to assure peaceful possession of the mining properties from the claims of third parties.

PREMISES CONSIDERED, (a) the instant petition for Certiorari and Prohibition is hereby GRANTED; (b) the decision dated June 27, 1986 and resolution dated May 5, 1987 of the Deputy Executive Secretary are hereby REVERSED AND SET ASIDE; and (c) the orders of the Bureau of Mines and Geo-Sciences dated July 23, 1985 and Minister of Natural Resources dated November 7, 1985 are hereby REINSTATED. SO ORDERED.

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

[1] Penned by Fulgencio Factoran, Jr.

[2] Penned by Catalino Macaraig, Jr.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.