

TEODORO MEDRANA, PETITIONER, VS. OFFICE OF THE PRESIDENT AND SUPREME AGGREGATES CORPORATION, RESPONDENTS.

G.R. No. 85904. August 21, 1990

Ponente: FELICIANO, J.

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FELICIANO, J.:

In this Special Civil Action for Certiorari, petitioner Teodoro Medrana asks us to set aside the decision of the Office of the President dated 20 September 1988 in O.P. Case No. 2143. In that decision, the Hon. Magdangal B. Elma, Deputy Executive Secretary, acting "by authority of the President", set aside a decision of the then Minister of Natural Resources dated 7 May 1982 and reinstated a decision of the Director of Mines dated 13 March 1981.

This controversy, which began in 1979, relates to Mining Lease Contract ("MLC") No. V-754 which the then Secretary of Agriculture and Natural Resources issued to private respondent Supreme Aggregates Corporation ("Supreme Aggregates") on 30 June 1969. This Mining Lease Contract has a lifetime of twenty-five (25) years and covers twenty-two (22) mining claims for volcanic cinder, etc., situated in Calamba, Laguna Province and Sto. Tomas, Batangas Province.

On 17 May 1974, P.D. No. 463 known as "The Mineral Resources Development Decree of 1974" was promulgated. Sections 100 and 101 of P.D. No. 463 provided as follows:

"Sec. 100. Old Valid Mining Rights May Come Under This Decree. -- Holders of valid and subsisting mining locations and other rights under other laws, irrespective of the areas covered, may avail of rights and privileges granted under this Decree by making the necessary application therefor and approval thereof by the Director within a period of two (2) years from the date of approval of this Decrees.

Sec. 101. Recognition and Survey of Old Subsisting Mining Claims. -- All mining grants patents, locations, leases and permits subsisting at the time of the approval of this Decree shall be recognized if registered pursuant to Section 100 thereof: Provided, That Spanish Royal Grants and unpatented mining claims located and registered under the Act of the United States Congress of July 1, 1902, as amended, otherwise known as the 'Philippine Bill', shall be surveyed within one (1) year from the approval of this Decree: Provided, further, That no such mining rights shall be recognized if there is failure to comply with the fundamental requirements of the respective grants. And provided, finally, That such grants, patents, locations, leases or permits as may be recognized by the Director after proper investigation shall comply with the applicable provisions of this Decree, more particularly with the annual work obligations, submittal of reports, fiscal provisions and other obligations." (Under-scoring supplied)

On 14 May 1976, within the period prescribed in Section 100 above, Supreme Aggregates filed with the Bureau of Mines an Application to Avail of Rights and Privileges under P.D. No. 463 which application was required by Sections 100 and 101, above, from all claimowners and lessees desirous of maintaining their pre-existing rights under the regime inaugurated by that decree.

On 27 February 1979, the Director of the Bureau of Mines issued an order denying Supreme Aggregates'

Application on the ground that Supreme Aggregates had failed to submit Affidavits of Annual Work Obligations.

On 15 June 1979, the Director of Mines issued Quarry Temporary Permits ("QTPs") Nos. 85, 86 and 87 to petitioner Teodoro Medrana. These permits covered areas within the territory leased to Supreme Aggregates under MLC No. V-754.

Fourteen days later, on 29 June 1979, Supreme Aggregates filed a petition with the Director of Mines praying for reinstatement of its rejected Application to Avail of Rights and Privileges and for cancellation of Medrana's QTPs Nos. 85, 86 and 87. Medrana filed an answer to this petition.

After investigation, the Director of Mines rendered a decision dated 13 March 1981 ordering the reinstatement of Supreme Aggregates' Application to Avail of Rights and Privileges and the cancellation of Medrana's QTPs Nos. 85, 86 and 87 since these covered areas within Supreme Aggregates' valid and subsisting MLC No. V-754.

On appeal by Medrana, the Ministry of Natural Resources reinstated Medrana's QTPs Nos. 85, 86 and 87, and declared that Supreme Aggregates' MLC No. V-754 had lapsed. In so deciding, former Minister of Natural Resources Teodoro Q. Peña reasoned that the order of the Bureau of Mines which had rejected Supreme Aggregates' Application to Avail of Rights and Privileges had already become final when Supreme Aggregates filed its petition for reinstatement of its Application on 29 June 1979, that is, one hundred and twenty (120) days after its receipt of the Bureau of Mines' order of denial. Former Minister Peña further held that the failure of Supreme Aggregates to file an Application to Avail of Rights and Privileges under P.D. No. 463 caused its Mining Lease Contract to lapse and opened the leased area to relocation.[1]

Supreme Aggregates then filed an appeal with the Office of the President. The Office of the President, as already noted, in a decision dated 20 September 1988, reversed the decision of the Minister of Natural Resources and in essence held that the failure to submit Affidavits of Annual Work Obligations for two (2) consecutive years did not, by itself and standing alone, result in the automatic cancellation of MLC No. V-754.

In the instant Petition for Certiorari, petitioner Medrana submits that the Office of the President acted with grave abuse of discretion, amounting to lack of jurisdiction, in reinstating Supreme Aggregates' MLC No. V-754 and cancelling petitioner's QTPs for the following reasons:

1. Private respondent Supreme Aggregates had abandoned its Mining Lease Contract by failing to comply with the mandatory requirements of Section 27 of P.D. No. 463.
2. The Bureau of Mines had declared the quarry covered by MLC No. V-754 as open for relocation of claims by virtue of the cancellation of that MLC. Moreover, petitioner Medrana, being registered owner of much of the land covered by MLC No. V-754, claims a preferential right to exploit the said quarry under Section 67 of P.D. No. 463.
3. Even before the issuance of QTPs Nos. 85, 86 and 87 to petitioner, the order of the Director of Mines denying Supreme Aggregates' Application had already become final and executory five (5) days from receipt of that order by private respondent Supreme Aggregates.

We consider below petitioner's contentions seriatim. We note, preliminarily, that under Section 5 of P.D. No. 309, from a decision of the Secretary of Natural Resources in cases involving conflicting mining claims, an appeal may be taken within five (5) days to the President "whose decision shall be final and executory". Clearly, therefore, further appeal from or review of the decision of the Office of the President is not available to petitioner. To succeed, petitioner must show that the Office of the President committed a grave abuse of discretion, or acted without or in excess of its jurisdiction, in rendering the decision he assails.

1. In the form it existed at the relevant time -- i.e., February 1979 -- Section 27 of P.D. No. 463, as amended by

P.D. No. 1385, read as follows:

"Sec. 27. Proof of Annual Work Obligations. The claimowner/lessee 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 within sixty (60) days from the end of the year in which the work obligation is required: Provided, That failure of to the claim-owner to comply therewith for two (2) consecutive years shall constitute automatic abandonment of the mining claims: Provided, Further, That, if it is found upon field verification that no such work was actually done on the mining claims, the claim-owner/lessee shall likewise lose all his rights thereto notwithstanding submission aforesaid documents." (Underscoring supplied)

Careful reading of the above-quoted Section 27 shows that abandonment of a mining claim or lease results from failure to comply with the annual work obligations on the area covered by a mining claim or lease for two (2) consecutive years. The precipitating event of the lapse of a mining claim or lease contemplated in Section 27 is the failure to carry out actual work on a mining claim or lease, and not simply the failure to submit in a timely manner the Affidavit of Annual Work Obligations. That Affidavit constitutes simply proof of compliance with the annual work obligations.[2] Execution and submission of an Affidavit of Annual Work Obligations creates a presumption that the work obligation was indeed carried out. This presumption is by no means a conclusive one, but is, on the contrary, merely a prima facie one since Section 27 expressly prescribes that "if it is found upon field verification that no such work was actually done on the mining claims, the claimowner/lessee shall likewise lose his rights thereto notwithstanding submission of the aforesaid documents". It follows that, conversely, failure to submit the Affidavit of Annual Work Obligations raises the presumption that no work was actually done, but that this presumption too can be overturned by affirmative proof -- e.g., by "field verification" -- that the required annual work obligations had in fact been carried out on the mining claim or leased area. To hold that the mere failure to submit the Affidavits resulted in automatic abandonment of MLC No. V-754 notwithstanding the actual performance of work obligations, would not only run counter to the express language of Section 27, but would also be to exalt form over substance.

In *Teodoro v. Macaraeg*,[3] the Court elaborated on the notion of abandonment in the following, quite definite, terms:

"The word 'abandon', in its ordinary sense, means to forsake entirely; to forsake or renounce utterly. The dictionaries trace this word to the root idea of 'putting under a ban.' The emphasis is on the finality and the publicity with which some thing or body is thus put in the control of another, and hence the meaning of giving up absolutely, with intent never again to resume or claim one's rights or interests.' In other words, the act of abandonment constitutes actual, absolute and irrevocable desertion of one's right or property. In the case at bar, Macaraeg merely intended to vacate his leasehold possession on the condition that a certain Claus be taken as his successor. Hence, his act did not constitute desertion of his leasehold as it was a mere intended surrender of the same. And as correctly espoused by the counsel for the respondent court, it is 'only through the actual surrender of the land that tenancy relation terminates; no amount of intention to surrender severs the relationship'. Furthermore, the said act of Macaraeg was not an absolute renunciation of his leasehold possession, as it was in fact clearly conditional." [4] (Under-scoring supplied)

Thus, abandonment may be said to result where there is concurrence of two (2) elements: the first being the intent to abandon a right or claim and the second being the external act by which that intention is expressed and carried into effect. There must, moreover, be an actual, as distinguished from a merely projected, relinquishment of a claim or right; otherwise the right or claim is not vacated or waived so as to be susceptible of being appropriated by the next owner. These two (2) requirements are clearly lacking in the case at bar. The Director of Mines and public respondent Office of the President had found that, in point of fact, private respondent Supreme Aggregates

had performed its annual work obligations. Supreme Aggregates could not therefore be said to have intended to abandon its mining claim or lease, notwithstanding the fact that it had failed to submit the normal documentary proof of performance of annual work obligations -- that is, the Affidavit of Annual Work Obligations. We agree, therefore, with the conclusion of the Office of the President that in the instant case, there was no abandonment, whether automatic or voluntary, of MLC No. V-754.

2. It is true that under Section 67 of P.D. No. 463, petitioner Medrana, as registered owner of the superficies of the land here involved, had a "preferential right to exploit the quarry resources found therein". That right, however, was simply a preferential right, and that right was ineffective to dissolve the pre-existing or subsisting right of private respondent Supreme Aggregates. The order of 27 February 1979 of the Director of Mines, denying Supreme Aggregates' Application to Avail of Rights and Privileges, did not have, nor did it purport to have, the effect of cancelling or declaring the automatic abandonment of MLC No. V-754: as noted above, there simply was no legal basis for so cancelling or declaring it as abandoned. It follows that the 27 February 1979 order did not produce the effect of opening up the areas leased in MLC No. V-754 to location or new acquisition of rights by petitioner Medrana, or by any other person for that matter.[5] It follows, furthermore, that petitioner's QTPs Nos. 85, 86 and 87 were not validly issued to begin with and that the express cancellation of the QTPs decreed in the Director of Mines' decision of 13 March 1981, which formally rectified his error by reinstating Supreme Aggregates' Application, was not even necessary being mere confirmatory of the juridical situation.

3. We turn to the question of whether or not Supreme Aggregates' petition dated 29 June 1979 for reinstatement of its rejected Application to Avail of Rights and Privileges and for cancellation of Medrana's QTPs Nos. 85, 86 and 87, had been filed seasonably. It is claimed by petitioner Medrana that that order of the Director of Mines had ipso facto cancelled Supreme Aggregates' MLC No. V-754 and that in any case, that order of the Director of Mines had already become final and executory by the time Supreme Aggregates filed its petition for reinstatement of its Application to Avail of Rights and Privileges.

We have already pointed out above that the denial order of the Director of Mines did not have the effect of ipso facto cancelling MLC No. V-754. It remains only therefore to determine whether, as petitioner contends and as the former Minister of Natural Resources held, the rejection order of the Director of Mines became final and executory upon expiration of five (5) days from receipt thereof by Supreme Aggregates, under Section 5 of P.D. No. 309. Section 5 of P.D. No. 309, entitled "Establishing Rules and Procedures for the Speedy Disposition or Settlement of Conflicting Mining Claims", provides as follows:

"Sec. 5. Any party not satisfied with the decision or order of the Director of Mines may, within five (5) days from receipt thereof, appeal to the Secretary of Agriculture and Natural Resources who shall render his decision within five (5) days from receipt of the appeal or submission of the report of the Department panel of investigators, as the case may be. From the decision of the Secretary, an appeal may be taken within five (5) days to the President whose decision shall be final and executory."

We agree with the Office of the President that Section 5 of P.D. No. 309 has no application to the case at bar. As its title clearly indicates, P.D. No. 309 applies only to cases involving conflicting mining claims, that is to say, to orders or decisions issued in adversarial or litigated proceedings involving mining claims with conflicting or overlapping boundaries. Section 3 of P.D. No. 309 makes this clear -?

"Sec. 3. x x x

For the purpose of expediting the exploration and exploitation of our mineral resources, the proceedings above-described will be so conducted so that the case so heard by the Director of Mines and/or through the Panel of Investigators shall be a final adjudication of rights over mining claim or claims subject to litigations and conflicts including the exploration and exploitation thereof.

x x x x x x x x"

(Underscoring supplied)

Section 5 of P.D. No. 309 quoted above and the five (5) days reglementary period can scarcely be made to apply to situations where there are no opposing or contending parties, as in the case of private respondent Supreme Aggregates' Application to Avail of Rights and Privileges with the Bureau of Mines. It must also be recalled that when the Director of Mines on 27 February 1979 denied Supreme Aggregates' Application to Avail of Rights and Privilege, there were as yet no conflicting claims asserted in respect of Supreme Aggregates' leased area. Petitioner Medrana's QTPs were issued only three (3) months after the Director of Mines had initially denied Supreme Aggregates' application.

We conclude that petitioner has entirely failed to show that Deputy Executive Secretary Magdangal Elma had committed any error in rendering the decision of the Office of the President dated 20 September 1988. But even if petitioner had succeeded in showing that the Office of the President had indeed misconstrued some provision of P.D. No. 463 as amended, or of the Rules and Regulations implementing P.D. No. 463, or of P.D. No. 309, such error would still be merely an error of law or an error of judgment and certainly not a grave abuse of discretion or an act without or in excess of jurisdiction correctible by certiorari.

WHEREFORE, the Petition for Certiorari must be, as it is hereby, **DISMISSED** for lack of merit and the Decision dated 20 September 1988 of the Office of the President **AFFIRMED** in toto. Costs against petitioner.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Decision dated 7 May 1982, MNR Case No. 4809, Rollo, p. 60.

[2] In this connection, it is helpful to note that under Section 43 of the "Rules and Regulations Implementing Presidential Decree No. 463, otherwise known as the 'Mineral Resources Development Decree of 1974' as amended":

"x x x a mining lease may also be cancelled under any of the following causes:

(a) for failure of the lessee to perform the work obligations required by Section 24 of the decree;

x x x x x x x x"

(Underscoring supplied) (Text of the Consolidated Mines Administrative Order Re: Rules and Regulations, in 71 Official Gazette 3509 (approved on 17 May 1975)

Moreover, under Section 44 of the same Rules and Regulations, a mining lease contract may be cancelled for any of the causes specified in Section 43 only after notice and hearing.

[3] 27 SCRA 7 (1969).

[4] 27 SCRA at 19.

[5] The Rules and Regulations implementing Presidential Decree No. 463 as amended provide, in Section 63 thereof, that:

"Areas covered by valid and subsisting mining claims and existing mining leases shall not be the subject of a

quarry permit or license." (Under-scoring supplied)

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