

ATOK-BIG WEDGE MINING COMPANY, INC., PETITIONER, VS. COURT OF APPEALS, AND LIWAN CONSI, RESPONDENTS.

G.R. No. 88883. January 18, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari which seeks to annul and set aside: (a) the decision[*] of the Court of Appeals dated March 13, 1989 in CA-G.R. No. SP No. 13528 entitled "Liwan Consi vs. Hon. Judge Ruben C. Ayson, et al." declaring that both the petitioner and private respondent hold possessory titles to the land in question, and (b) the resolution denying the motion for reconsideration.

The facts of the case are as follows:

Fredia Mineral claim of about nine (9) hectares situated in Tuding, Itogon, Benguet, was located sometime between December 25, 1930 and December 31, 1930, a period of six (6) days, by A. I. Reynolds in accordance with the provisions of the Act of Congress of July 1, 1902, better known as the Philippine Bill of 1902, in a so-called Declaration of Location. The said Declaration of Location of mineral claim was duly recorded in the Office of the Mining Recorder sometime on January 2, 1931. Fredia mineral claim, together with other mineral claims, was sold by A. I. Reynolds to Big Wedge Mining Company, the earlier corporate name of Atok Big Wedge Mining Company, Inc. (Atok for short; herein petitioner) in a Deed of Sale executed on November 2, 1931. Since then petitioner Atok has been in continuous and exclusive ownership and possession of said claim up to the present (Rollo, Annex "B", p. 21).

Atok has paid the realty taxes and occupation fees for the Fredia mineral claim. The Fredia mineral claim together with other mineral claims owned by Atok has been declared under Tax Declaration No. 9535 and that in view of Presidential Decree No. 1214 an application for lease was filed by Atok covering the Fredia mineral claim (Rollo, Ibid., p. 22).

On the other hand, private respondent Liwan Consi has a lot below the land of a certain Mr. Acay at Tuding Slide, Itogon, Benguet. He constructed a house thereon sometime in 1964. The lot is covered by Tax Declaration No. 9462. When he first constructed his house below the lot of Mr. Acay he was told that it was not necessary for him to obtain a building permit as it was only a nipa hut. And no one prohibited him from entering the land so he was constructing a house thereon. It was only in January 1984 when private respondent Consi repaired the said house that people came to take pictures and told him that the lot belongs to Atok. Private respondent Consi has been paying taxes on said land which his father before him had occupied (Rollo, Ibid., p. 22).

On January 1984, the security guards of Atok informed Feliciano Reyes, Security Officer of Atok, that a construction was being undertaken at the area of the Fredia mineral claim by private respondent Liwan Consi. Feliciano Reyes instructed the cashier to go and take pictures of the construction. Feliciano Reyes himself and other security guards went to the place of the construction to verify and then to the police to report the matter (Rollo, Ibid.).

On March 1, 1984, Atok filed a complaint for forcible entry and detainer against Liwan Consi (Rollo, Annex "C", p. 32).

On January 29, 1987, after due hearing, the Municipal Trial Court of Itogon, presided over by Judge Irving rendered a decision, the dispositive portion of which reads:

"WHEREFORE, this case against Liwan Consi is hereby ordered dismissed." (Rollo, Annex "A", p. 20).

Petitioner ATOK appealed the decision to the Regional Trial Court (RTC) of Baguio and Benguet, Branch VI, presided over by Judge Ruben Ayson (Rollo, Petition, p. 3). On December 5, 1987, the RTC rendered its decision, the dispositive portion of which reads:

"WHEREFORE, in view of all the foregoing the decision of the Municipal Trial Court of Itogon dated January 29, 1987 appealed from is hereby reversed and set aside and a new one entered in its place ordering the defendant Liwan Consi and all those claiming under him to vacate the premises of the Fredia Mineral claim at Tuding, Itogon, Benguet immediately, and to restore possession thereof to the plaintiff Atok Big Wedge Mining Company.

"The defendant, Liwan Consi, is further ordered to remove and demolish his house constructed in the premises of the land of Fredia mineral claim at Tuding, Benguet, and to pay the costs.

"SO ORDERED." (Rollo, p. 30).

From said decision, Liwan Consi filed with the Court of Appeals a petition for review (Rollo, Petition, p. 4). On March 13, 1989, the Court of Appeals rendered its decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered dismissing the subject forcible entry action. Costs against private respondent.

"SO ORDERED." (Rollo, Annex "C", p. 48).

The Court of Appeals further ruled in part to wit:

"The determination of whether the subject lot is mineral land or agricultural awaits the decision of the Secretary of Natural Resources in a proceeding called for that purpose. Thus, there is a chance that the subject property may be classified as alienable agricultural land. At any rate, the mining company may not so readily describe Liwan Consi as a 'squatter' as he also has possessory rights over the property. Such rights may mature into ownership on the basis of long-term possession under the Public Land Law.

"Thus it is Our holding, that both Consi and ATOK are of equal legal footing with regards the subject lot. Both hold possessory titles to the land in question -- the petitioner through his long term occupancy of the same; the respondent mining firm by virtue of its being the claim locator and applicant for a lease on the mineral claim within which the subject lot is found. But it was established that the petitioner has been in actual and beneficial possession of the subject lot since before the Second World War in the concept of owner and in good faith." (Rollo, Annex "C", pp. 47-48).

On June 16, 1989, the Court of Appeals denied the motion for reconsideration filed by petitioner ATOK (Rollo, Annex "D", p. 50).

Hence, the petition.

The main issue in this case is whether or not an individual's long term occupation of land of the public domain vests him with such rights over the same as to defeat the rights of the owner of that claim.

The petition is impressed with merit.

It is of no importance whether Benguet and Atok had secured a patent for as held in the Gold Creek Mining Corporation case, for all physical purposes of ownership, the owner is not required to secure a patent as long as he complies with the provisions of the mining laws; his possessory right, for all practical purposes of ownership, is as good as though secured by patent (Republic v. Court of Appeals, 160 SCRA 228 [1988]).

In the case at bar, the evidence on record pointed that the petitioner Atok has faithfully complied with all the requirements of the law regarding the maintenance of the said Fredia Mineral Claim.

The perfection of the mining claim converted the property to mineral land and under the laws then in force removed it from the public domain. By such act, the locators acquired exclusive rights over the land, against even the government, without need of any further act such as the purchase of the land or the obtention of a patent over it. As the land had become the private property of the locators, they had the right to transfer the same, as they did, to Benguet and Atok (Ibid.).

As in the instant petition, the record shows that the lot in question was acquired through a Deed of Sale executed between Atok and Fredia Mineral Claim.

"The legal effect of a valid location of a mining claim is not only to segregate the area from the public domain, but to grant to the locator the beneficial ownership of the claim and the right to a patent therefor upon compliance with the terms and conditions prescribed by law. Where there is a valid location of mining claim, the area becomes segregated from the public and the property of the locator. When a location of a mining claim is perfected it has the effect of a grant by the United States of the right of present and exclusive possession, with the right to the exclusive enjoyment of all the surface ground as well as of all the minerals within the lines of the claim, except as limited by the extralateral right of adjoining locators; and this is the locator's right before as well as after the issuance of the patent. While a lode locator acquires a vested right by virtue of his location made in compliance with the mining laws, the fee remains in the government until patent issues." (St. Louis Mining & Mineral Co. v. Montana Mining Co., 171 U.S. 605, 655; 43 Law ed., 320, 322)

It is, therefore, evident that Benguet and Atok have exclusive rights to the property in question by virtue of their respective mining claims which they validly acquired before the Constitution of 1935 prohibited the alienation of all lands of the public domain except agricultural lands, subject to vested rights existing at the time of its adoption. The land was not and could not have been transferred to the private respondents by virtue of acquisitive prescription, nor could its use be shared simultaneously by them and the mining companies for agricultural and mineral purposes (Ibid.).

On the matter of possession, private respondent contends that his predecessor-in-interest has been in possession of said lot even before the war and has in fact cultivated the same.

In the case of Republic v. Court of Appeals, 160 SCRA 288 1988, this Court held:

"x x x even if it be assumed that the predecessor-in-interest of the de la Rosas had already been in possession of the subject property, their possession was not in the concept of owner of the mining claim but of the property as agricultural land, which it was not. The property was mineral land, and they were claiming it as agricultural land. They were not disputing the rights of the mining locators nor were they seeking to oust them as such and to replace them in the mining of the land. x x x."

Since the subject lot is mineral land, private respondent's possession of the subject lot no matter how long did not confer upon him possessory rights over the same.

Furthermore, Article 538 of the New Civil Code provides:

"Art. 538. Possession as a fact cannot be recognized at the same time in two different personalities except in

the cases of co-possession. Should a question arise regarding the fact of possession, the present possessor shall be preferred; if there are two possessors, the one longer in possession; if the dates of the possession are the same, the one who presents a title; and if all these conditions are equal, the thing shall be placed in judicial deposit pending determination of its possession or ownership through proper proceedings."

Since 1931 up to the present, petitioner ATOK has been in continuous and exclusive possession of the Fredia mineral claim while private respondent's possession started only sometime in 1964 when he constructed a house thereon. Clearly, ATOK has superior possessory rights than private respondent, Liwan Consi, the former being "the one longer in possession."

It is therefore clear that from the legal viewpoint it was really petitioner who was in actual, physical possession of the property. Having been deprived of this possession by the private respondent, petitioner has every right to sue for ejectment.

With this ruling enunciated by the Court, it can further be declared and held that petitioner Atok has the exclusive right to the property in question.

PREMISES CONSIDERED, the petition is GRANTED and the questioned decision of the Court of Appeals date March 13, 1989 is REVERSED and SET ASIDE and the decision of the Regional Trial Court of Baguio and Benguet dated June 16, 1989 is REINSTATED.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, and Regalado, JJ., concur.
Sarmiento, J., no part.

[*] Penned by Justice Alfredo L. Benipayo concurred in by Justices Jose A. R. Melo and Nicolas P. Lapena, Jr.

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