

**MINERS ASSOCIATION OF THE PHILIPPINES, INC., PETITIONER, VS.
HON. FULGENCIO S. FACTORAN, JR., SECRETARY OF ENVIRONMENT
AND NATURAL RESOURCES, AND JOEL D. MUYCO, DIRECTOR OF
MINE...**

G.R. No. 98332. January 16, 1995

Ponente: ROMERO, J.

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ROMERO, J.:

The instant petition seeks a ruling from this Court on the validity of two Administrative Orders issued by the Secretary of the Department of Environment and Natural Resources to carry out the provisions of certain Executive Orders promulgated by the President in the lawful exercise of legislative powers.

Herein controversy was precipitated by the change introduced by Article XII, Section 2 of the 1987 Constitution on the system of exploration, development and utilization of the country's natural resources. No longer is the utilization of inalienable lands of public domain through "license, concession or lease" under the 1935 and 1973 Constitutions [1] allowed under the 1987 Constitution.

The adoption of the concept of *jura regalia* [2] that all natural resources are owned by the State embodied in the 1935, 1973 and 1987 Constitutions, as well as the recognition of the importance of the country's natural resources, not only for national economic development, but also for its security and national defense, [3] ushered in the adoption of the constitutional policy of "full control and supervision by the State" in the exploration, development and utilization of the country's natural resources. The options open to the State are through direct undertaking or by entering into co-production, joint venture, or production-sharing agreements, or by entering into agreement with foreign-owned corporations for large-scale exploration, development and utilization.

Article XII, Section 2 of the 1987 Constitution provides:

"SEC. 2. All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.

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The President may enter into agreements with foreign-owned corporations involving either technical or financial

assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country. In such agreements, the State shall promote the development and use of local scientific and technical resources.

The President shall notify the Congress of every contract entered into in accordance with this provision, within thirty days from its execution." (Underscoring supplied)

Pursuant to the mandate of the above-quoted provision, legislative acts [4] were successively issued by the President in the exercise of her legislative power. [5]

To implement said legislative acts, the Secretary of the Department of Environment and Natural Resources (DENR) in turn promulgated Administrative Order Nos. 57 and 82, the validity and constitutionality of which are being challenged in this petition.

On July 10, 1987, President Corazon C. Aquino, in the exercise of her then legislative powers under Article II, Section 1 of the Provisional Constitution and Article XIII, Section 6 of the 1987 Constitution, promulgated Executive Order No. 211 prescribing the interim procedures in the processing and approval of applications for the exploration, development and utilization of minerals pursuant to the 1987 Constitution in order to ensure the continuity of mining operations and activities and to hasten the development of mineral resources. The pertinent provisions read as follows:

"SECTION 1. Existing mining permits, licenses, leases and other mining grants issued by the Department of Environment and Natural Resources and Bureau of Mines and Geo-Sciences, including existing operating agreements and mining service contracts, shall continue and remain in full force and effect, subject to the same terms and conditions as originally granted and/or approved.

"SECTION 2. Applications for the exploration, development and utilization of mineral resources, including renewal applications and applications for approval of operating agreements and mining service contracts, shall be accepted and processed and may be approved; concomitantly thereto, declarations of locations and all other kinds of mining applications shall be accepted and registered by the Bureau of Mines and Geo-Sciences.

"SECTION 3. The processing, evaluation and approval of all mining applications, declarations of locations, operating agreements and service contracts as provided for in Section 2 above, shall be governed by Presidential Decree No. 463, as amended, other existing mining laws and their implementing rules and regulations: Provided, however, that the privileges granted, as well as the terms and conditions thereof shall be subject to any and all modifications or alterations which Congress may adopt pursuant to Section 2, Article XII of the 1987 Constitution."

On July 25, 1987, President Aquino likewise promulgated Executive Order No. 279 authorizing the DENR Secretary to negotiate and conclude joint venture, co-production, or production-sharing agreements for the exploration, development and utilization of mineral resources, and prescribing the guidelines for such agreements and those agreements involving technical or financial assistance by foreign-owned corporations for large-scale exploration, development, and utilization of minerals. The pertinent provisions relevant to this petition are as follows:

"SECTION 1. The Secretary of the Department of Environment and Natural Resources (hereinafter referred to as "the Secretary") is hereby authorized to negotiate and enter into, for and in behalf of the Government, joint venture, co--production, or production-sharing agreements for the exploration, development, and utilization of mineral resources with any Filipino citizens, or corporation or association at least sixty percent (60%) of whose capital is owned by Filipino citizens. Such joint venture, co-production, or production-sharing agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and shall

include the minimum terms and conditions prescribed in Section 2 hereof. In the execution of a joint venture, co-production or production agreements, the contracting parties, including the Government, may consolidate two or more contiguous or geologically - related mining claims or leases and consider them as one contract area for purposes of determining the subject of the joint venture, co-production, or production-sharing agreement.

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SECTION 6. The Secretary shall promulgate such supplementary rules and regulations as may be necessary to effectively implement the provisions of this Executive Order.

SECTION 7. All provisions of Presidential Decree No. 463, as amended, other existing mining laws, and their implementing rules and regulations, or parts thereof, which are not inconsistent with the provisions of this Executive Order, shall continue in force and effect."

Pursuant to Section 6 of Executive Order No. 279, the DENR Secretary issued on June 23, 1989 DENR Administrative Order No. 57, series of 1989, captioned "Guidelines on Mineral Production Sharing Agreement under Executive Order No. 279." [6] Under the transitory provision of said DENR Administrative Order No. 57, embodied in its Article 9, all existing mining leases or agreements which were granted after the effectivity of the 1987 Constitution pursuant to Executive Order No. 211, except small scale mining leases and those pertaining to sand and gravel and quarry resources covering an area of twenty (20) hectares or less, shall be converted into production-sharing agreements within one (1) year from the effectivity of these guidelines.

On November 20, 1990, the Secretary of the DENR issued DENR Administrative Order No. 82, series of 1990, laying down the "Procedural Guidelines on the Award of Mineral Production Sharing Agreement (MPSA) through Negotiation." [7]

Section 3 of the aforementioned DENR Administrative Order No. 82 enumerates the persons or entities required to submit Letter of Intent (LOIs) and Mineral Production Sharing Agreement (MPSAs) within two (2) years from the effectivity of DENR Administrative Order No. 57 or until July 17, 1991. Failure to do so within the prescribed period shall cause the abandonment of mining, quarry and sand and gravel claims. Section 3 of DENR Administrative Order No. 82 provides:

"Section 3. Submission of Letter of Intent (LOIs) and MPSAs. The following shall submit their LOIs and MPSAs within two (2) years from the effectivity of DENR A.O. 57 or until July 17, 1991.

"i. Declaration of Location (DOL) holders, mining lease applicants, exploration permittees, quarry applicants and other mining applicants whose mining/quarry applications have not been perfected prior to the effectivity of DENR Administrative Order No. 57.

"ii. All holders of DOL acquired after the effectivity of DENR A.O. No. 57.

"iii. Holders of mining leases or similar agreements which were granted after (the) effectivity of 1987 Constitution.

"Failure to submit letters of intent and MPSA applications/proposals within the prescribed period shall cause the abandonment of mining, quarry and sand and gravel claims."

The issuance and the impending implementation by the DENR of Administrative Order Nos. 57 and 82 after their respective effectivity dates compelled the Miners Association of the Philippines, Inc. [8] to file the instant petition assailing their validity and constitutionality before this Court.

In this petition for certiorari, petitioner Miners Association of the Philippines, Inc., mainly contends that

respondent Secretary of DENR issued both Administrative Order Nos. 57 and 82 in excess of his rule-making power under Section 6 of Executive Order No. 279. On the assumption that the questioned administrative orders do not conform with Executive Order Nos. 211 and 279, petitioner contends that both orders violate the non-impairment of contract provision under Article III, Section 10 of the 1987 Constitution on the ground that Administrative Order No. 57 unduly pre-terminates existing mining leases and other mining agreements and automatically converts them into production-sharing agreements within one (1) year from its effectivity date. On the other hand, Administrative Order No. 82 declares that failure to submit Letters of Intent and Mineral Production-Sharing Agreements within two (2) years from the date of effectivity of said guideline or on July 17, 1991 shall cause the abandonment of their mining, quarry and sand gravel permits.

On July 2, 1991, the Court, acting on petitioner's urgent ex-parte petition for issuance of a restraining order/preliminary injunction, issued a Temporary Restraining Order, upon posting of a P500,000.00 bond, enjoining the enforcement and implementation of DENR Administrative Order Nos. 57 and 82, as amended, Series of 1989 and 1990, respectively. [9]

On November 13, 1991, Continental Marble Corporation, [10] thru its President, Felipe A. David, sought to intervene [11] in this case alleging that because of the temporary restraining order issued by the Court, the DENR, Regional Office No. 3 in San Fernando, Pampanga refused to renew its Mines Temporary Permit after it expired on July 31, 1991. Claiming that its rights and interests are prejudicially affected by the implementation of DENR Administrative Order Nos. 57 and 82, it joined petitioner herein in seeking to annul Administrative Order Nos. 57 and 82 and prayed that the DENR, Regional Office No. 3 be ordered to issue a Mines Temporary Permit in its favor to enable it to operate during the pendency of the suit.

Public respondents were required to comment on the Continental Marble Corporation's petition for intervention in the resolution of November 28, 1991. [12]

Now to the main petition. It is argued that Administrative Order Nos. 57 and 82 have the effect of repealing or abrogating existing mining laws [13] which are not inconsistent with the provisions of Executive Order No. 279. Invoking Section 7 of said Executive Order No. 279, [14] petitioner maintains that respondent DENR Secretary cannot provide guidelines such as Administrative Order Nos. 57 and 82 which are inconsistent with the provisions of Executive Order No. 279 because both Executive Order Nos. 211 and 279 merely reiterated the acceptance and registration of declarations of location and all other kinds of mining applications by the Bureau of Mines and Geo-Sciences under the provisions of Presidential Decree No. 463, as amended, until Congress opts to modify or alter the same.

In other words, petitioner would have us rule that DENR Administrative Order Nos. 57 and 82 issued by the DENR Secretary in the exercise of his rule-making power are tainted with invalidity inasmuch as both contravene or subvert the provisions of Executive Order Nos. 211 and 279 or embrace matters not covered, nor intended to be covered, by the aforesaid laws.

We disagree.

We reiterate the principle that the power of administrative officials to promulgate rules and regulations in the implementation of a statute is necessarily limited only to carrying into effect what is provided in the legislative enactment. The principle was enunciated as early as 1908 in the case of *United States v. Barrias*. [15] The scope of the exercise of such rule-making power was clearly expressed in the case of *United States v. Tupasi Molina*, [16] decided in 1914, thus: "Of course, the regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law, and for the sole purpose of carrying into effect its general provisions. By such regulations, of course, the law itself can not be extended. So long, however, as the

regulations relate solely to carrying into effect the provision of the law, they are valid."

Recently, the case of *People v. Maceren* [17] gave a brief delineation of the scope of said power of administrative officials:

"Administrative regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law, and should be for the sole purpose of carrying into effect its general provisions. By such regulations, of course, the law itself cannot be extended (*U.S. v. Tupasi Molina*, supra). An administrative agency cannot amend an act of Congress (*Santos vs. Estenzo*, 109 Phil. 419, 422; *Teoxon vs. Members of the Board of Administrators*, L-25619, June 30, 1970, 33 SCRA 585; *Manuel vs. General Auditing Office*, L-28952, December 29, 1971, 42 SCRA 660; *Deluao v. Casteel*, L-21906, August 29, 1969, 29 SCRA 350).

"The rule-making power must be confined to details for regulating the mode or proceeding to carry into effect the law as it has been enacted. The power cannot be extended to amending or expanding the statutory requirements or to embrace matters not covered by the statute. Rules that subvert the statute cannot be sanctioned (*University of Santo Tomas v. Board of Tax Appeals*, 93 Phil. 376, 382, citing 12 C.J. 845-46. As to invalid regulations, see *Collector of Internal Revenue v. Villaflor*, 69 Phil. 319; *Wise & Co. v. Meer*, 78 Phil. 655, 676; *Del Mar v. Phil. Veterans Administration*, L- 27299, June 27, 1973, 51 SCRA 340, 349).

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"x x x The rule or regulations should be within the scope of the statutory authority granted by the legislature to the administrative agency (*Davis, Administrative Law*, p. 194, 197, cited in *Victorias Milling Co., Inc. v. Social Security Commission*, 114 Phil. 555, 558).

"In case of discrepancy between the basic law and a rule or regulation issued to implement said law, the basic law prevails because said rule or regulations cannot go beyond the terms and provisions of the basic law (*People v. Lim*, 108 Phil. 1091)."

Considering that administrative rules draw life from the statute which they seek to implement, it is obvious that the spring cannot rise higher than its source. We now examine petitioner's argument that DENR Administrative Order Nos. 57 and 82 contravene Executive Order Nos. 211 and 279 as both operate to repeal or abrogate Presidential Decree No. 463, as amended, and other mining laws allegedly acknowledged as the principal law under Executive Order Nos. 211 and 279.

Petitioner's insistence on the application of Presidential Decree No. 463, as amended, as the governing law on the acceptance and approval of declarations of location and all other kinds of applications for the exploration, development, and utilization of mineral resources pursuant to Executive Order No. 211, is erroneous. Presidential Decree No. 463, as amended, pertains to the old system of exploration, development and utilization of natural resources through "license, concession or lease" which, however, has been disallowed by Article XII, Section 2 of the 1987 Constitution. By virtue of the said constitutional mandate and its implementing law, Executive Order No. 279 which superseded Executive Order No. 211, the provisions dealing on "license, concession, or lease" of mineral resources under Presidential Decree No. 463, as amended, and other existing mining laws are deemed repealed and, therefore, ceased to operate as the governing law. In other words, in all other areas of administration and management of mineral lands, the provisions of Presidential Decree No. 463, as amended, and other existing mining laws, still govern. Section 7 of Executive Order No. 279 provides, thus:

"SEC. 7. All provisions of Presidential Decree No. 463, as amended, other existing mining laws, and their implementing rules and regulations, or parts thereof, which are not inconsistent with the provisions of this Executive Order, shall continue in force and effect."

Specifically, the provisions of Presidential Decree No. 463, as amended, on lease of mining claims under Chapter VIII, quarry permits on privately-owned lands or quarry license on public lands under Chapter XIII and other related provisions on lease, license and permits are not only inconsistent with the *raison d'être* for which Executive Order No. 279 was passed, but contravene the express mandate of Article XII, Section 2 of the 1987 Constitution. Its force and effectivity is thus foreclosed.

Upon the effectivity of the 1987 Constitution on February 2, 1987, [18] the State assumed a more dynamic role in the exploration, development and utilization of the natural resources of the country. Article XII, Section 2 of the said Charter explicitly ordains that the exploration, development and utilization of natural resources shall be under the full control and supervision of the State. Consonant therewith, the exploration, development and utilization of natural resources may be undertaken by means of direct act of the State, or it may opt to enter into co-production, joint venture, or production-sharing agreements, or it may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country.

Given these considerations, there is no clear showing that respondent DENR Secretary has transcended the bounds demarcated by Executive Order No. 279 for the exercise of his rule-making power tantamount to a grave abuse of discretion. Section 6 of Executive Order No. 279 specifically authorizes said official to promulgate such supplementary rules and regulations as may be necessary to effectively implement the provisions thereof. Moreover, the subject sought to be governed and regulated by the questioned orders is germane to the objects and purposes of Executive Order No. 279 specifically issued to carry out the mandate of Article XII, Section 2 of the 1987 Constitution.

Petitioner likewise maintains that Administrative Order No. 57, in relation to Administrative Order No. 82, impairs vested rights as to violate the non-impairment of contract doctrine guaranteed under Article III, Section 10 of the 1987 Constitution because Article 9 of Administrative Order No. 57 unduly pre-terminates and automatically converts mining leases and other mining agreements into production-sharing agreements within one (1) year from effectivity of said guideline, while Section 3 of Administrative Order No. 82 declares that failure to submit Letters of Intent (LOIs) and MPSAs within two (2) years from the effectivity of Administrative Order No. 57 or until July 17, 1991 shall cause the abandonment of mining, quarry, and sand gravel permits.

In support of the above contention, it is argued by petitioner that Executive Order No. 279 does not contemplate automatic conversion of mining lease agreements into mining production-sharing agreement as provided under Article 9, Administrative Order No. 57 and/or the consequent abandonment of mining claims for failure to submit LOIs and MPSAs under Section 3, Administrative Order No. 82 because Section 1 of said Executive Order No. 279 empowers the DENR Secretary to negotiate and enter into voluntary agreements which must set forth the minimum terms and conditions provided under Section 2 thereof. Moreover, petitioner contends that the power to regulate and enter into mining agreements does not include the power to preterminate existing mining lease agreements.

To begin with, we dispel the impression created by petitioner's argument that the questioned administrative orders unduly preterminate existing mining leases in general. A distinction which spells a real difference must be drawn. Article XII, Section 2 of the 1987 Constitution does not apply retroactively to "license, concession or lease" granted by the government under the 1973 Constitution or before the effectivity of the 1987 Constitution on February 2, 1987. The intent to apply prospectively said constitutional provision was stressed during the deliberations in the Constitutional Commission, [19] thus:

"MR. DAVIDE:

Under the proposal, I notice that except for the [inalienable] lands of the public domain, all other natural resources cannot be alienated and in respect to [alienable] lands of the public domain, private corporations with the required ownership by Filipino citizens can only lease the same. Necessarily, insofar as other natural resources are concerned, it would only be the State which can exploit, develop, explore and utilize the same. However, the State may enter into a joint venture, co- production or production-sharing. Is that not correct?

"MR. VILLEGAS:

Yes.

"MR. DAVIDE:

Consequently, henceforth upon the approval of this Constitution, no timber or forest concession, permits or authorization can be exclusively granted to any citizen of the Philippines nor to any corporation qualified to acquire lands of the public domain?

"MR. VILLEGAS:

Would Commissioner Monsod like to comment on that? I think his answer is "yes."

"MR. DAVIDE:

So, what will happen now to licenses or concessions earlier granted by the Philippine government to private corporations or to Filipino citizens? Would they be deemed repealed?

"MR. VILLEGAS:

This is not applied retroactively. They will be respected.

"MR. DAVIDE:

In effect, they will be deemed repealed?

"MR. VILLEGAS:

No." (Underscoring supplied)

During the transition period or after the effectivity of the 1987 Constitution on February 2, 1987 until the first Congress under said Constitution was convened on July 27, 1987, two (2) successive laws, Executive Order Nos. 211 and 279, were promulgated to govern the processing and approval of applications for the exploration, development and utilization of minerals. To carry out the purposes of said laws, the questioned Administrative Order Nos. 57 and 82, now being assailed, were issued by the DENR Secretary.

Article 9 of Administrative Order No. 57 provides:

"ARTICLE 9

"TRANSITORY PROVISION

"9.1. All existing mining leases or agreements which were granted after the effectivity of the 1987 Constitution pursuant to Executive Order No. 211, except small scale mining leases and those pertaining to sand and gravel and quarry resources covering an area of twenty (20) hectares or less shall be subject to these guidelines. All

such leases or agreements shall be converted into production sharing agreement within one (1) year from the effectivity of these guidelines. However, any mining firm which has established mining rights under Presidential Decree 463 or other laws may avail of the provisions of EO 279 by following the procedures set down in this document."

It is clear from the aforestated provision that Administrative Order No. 57 applies only to all existing mining leases or agreements which were granted after the effectivity of the 1987 Constitution pursuant to Executive Order No. 211. It bears mention that under the text of Executive Order No. 211, there is a reservation clause which provides that the privileges as well as the terms and conditions of all existing mining leases or agreements granted after the effectivity of the 1987 Constitution, pursuant to Executive Order No. 211, shall be subject to any and all modifications or alterations which Congress may adopt pursuant to Article XII, Section 2 of the 1987 Constitution. Hence, the strictures of the non-impairment of contract clause under Article III, Section 10 of the 1987 Constitution [20] do not apply to the aforesaid mining leases or agreements granted after the effectivity of the 1987 Constitution, pursuant to Executive Order No. 211. They can be amended, modified or altered by a statute passed by Congress to achieve the purposes of Article XII, Section 2 of the 1987 Constitution.

Clearly, Executive Order No. 279 issued on July 25, 1987 by President Corazon C. Aquino in the exercise of her legislative power has the force and effect of a statute or law passed by Congress. As such, it validly modified or altered the privileges granted, as well as the terms and conditions of mining leases and agreements under Executive Order No. 211 after the effectivity of the 1987 Constitution by authorizing the DENR Secretary to negotiate and conclude joint venture, co-production, or production-sharing agreements for the exploration, development and utilization of mineral resources and prescribing the guidelines for such agreements and those agreements involving technical or financial assistance by foreign-owned corporations for large-scale exploration, development, and utilization of minerals.

Well-settled is the rule, however, that regardless of the reservation clause, mining leases or agreements granted by the State, such as those granted pursuant to Executive Order No. 211 referred to in this petition, are subject to alterations through a reasonable exercise of the police power of the State. In the 1950 case of *Ongsiako v. Gamboa*, [21] where the constitutionality of Republic Act No. 34 changing the 50-50 sharecropping system in existing agricultural tenancy contracts to 55-45 in favor of tenants was challenged, the Court, upholding the constitutionality of the law, emphasized the superiority of the police power of the State over the sanctity of the contract:

"The prohibition contained in constitutional provisions against impairing the obligation of contracts is not an absolute one and it is not to be read with literal exactness like a mathematical formula. Such provisions are restricted to contracts which respect property, or some object or value, and confer rights which may be asserted in a court of justice, and have no application to statute relating to public subjects within the domain of the general legislative powers of the State, and involving the public rights and public welfare of the entire community affected by it. They do not prevent a proper exercise by the State of its police powers. By enacting regulations reasonably necessary to secure the health, safety, morals, comfort, or general welfare of the community, even the contracts may thereby be affected; for such matter can not be placed by contract beyond the power of the State to regulate and control them." [22]

In *Ramas v. CAR and Ramos* [23] where the constitutionality of Section 14 of Republic Act No. 1199 authorizing the tenants to change from share to leasehold tenancy was challenged on the ground that it impairs the obligation of contracts, the Court ruled that obligations of contracts must yield to a proper exercise of the police power when such power is exercised to preserve the security of the State and the means adopted are reasonably adapted to the accomplishment of that end and are, therefore, not arbitrary or oppressive.

The economic policy on the exploration, development and utilization of the country's natural resources under Article XII, Section 2 of the 1987 Constitution could not be any clearer. As enunciated in Article XII, Section I of the 1987 Constitution, the exploration, development and utilization of natural resources under the new system mandated in Section 2, is geared towards a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

The exploration, development and utilization of the country's natural resources are matters vital to the public interest and the general welfare of the people. The recognition of the importance of the country's natural resources was expressed as early as the 1934 Constitutional Convention. In connection therewith, the 1986 U.P. Constitution Project observed: "The 1934 Constitutional Convention recognized the importance of our natural resources not only for its security and national defense. Our natural resources which constitute the exclusive heritage of the Filipino nation, should be preserved for those under the sovereign authority of that nation and for their posterity. This will ensure the country's survival as a viable and sovereign republic."

Accordingly, the State, in the exercise of its police power in this regard, may not be precluded by the constitutional restriction on non-impairment of contract from altering, modifying and amending the mining leases or agreements granted under Presidential Decree No. 463, as amended, pursuant to Executive Order No. 211. Police power, being co-extensive with the necessities of the case and the demands of public interest, extends to all the vital public needs. The passage of Executive Order No. 279 which superseded Executive Order No. 211 provided legal basis for the DENR Secretary to carry into effect the mandate of Article XII, Section 2 of the 1987 Constitution.

Nowhere in Administrative Order No. 57 is there any provision which would lead us to conclude that the questioned order authorizes the automatic conversion of mining leases and agreements granted after the effectivity of the 1987 Constitution, pursuant to Executive Order No. 211, to production-sharing agreements. The provision in Article 9 of Administrative Order No. 57 that "all such leases or agreements shall be converted into production sharing agreements within one (1) year from the effectivity of these guidelines" could not possibly contemplate a unilateral declaration on the part of the Government that all existing mining leases and agreements are automatically converted into production-sharing agreements. On the contrary, the use of the term "production-sharing agreement" in the same provision implies negotiation between the Government and the applicants, if they are so minded. Negotiation negates compulsion or automatic conversion as suggested by petitioner in the instant petition. A mineral production-sharing agreement (MPSA) requires a meeting of the minds of the parties after negotiations arrived at in good faith and in accordance with the procedure laid down in the subsequent Administrative Order No. 82.

We, therefore, rule that the questioned administrative orders are reasonably directed to the accomplishment of the purposes of the law under which they were issued and were intended to secure the paramount interest of the public, their economic growth and welfare. The validity and constitutionality of Administrative Order Nos. 57 and 82 must be sustained, and their force and effect upheld.

We now proceed to the petition-in-intervention. Under Section 2, Rule 12 of the Revised Rules of Court, an intervention in a case is proper when the intervenor has a "legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof." Continental Marble Corporation has not sufficiently shown that it falls under any of the categories mentioned above. The refusal of the DENR, Regional Office No. 3, San Fernando, Pampanga to renew its Mines Temporary Permit does not justify such an intervention by Continental Marble Corporation for the purpose of obtaining a directive from

this Court for the issuance of said permit. Whether or not Continental Marble matter best addressed to the appropriate government body but certainly, not through this Court. Intervention is hereby DENIED.

WHEREFORE, the petition is DISMISSED for lack of merit. The Temporary Restraining Order issued on July 2, 1991 is hereby LIFTED. SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.

[1] Article XIII, Section 1 of the 1935 Constitution provides:

"Section 1. All agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, and other natural resources of the Philippines belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines, or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens, subject to any existing right, grant, lease or concession at the time of the inauguration of the Government established under this Constitution. Natural resources, with the exception of public agricultural land, shall not be alienated, and no license, concession, or lease for the exploitation, development, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for another twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases beneficial use may be the measure and the limit of the grant.

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Article XIV, Section 8 of the 1973 Constitution provides:

"Section 8. All lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, wildlife, and other natural resources of the Philippines belong to the State. With the exception of agricultural, industrial or commercial, residential, and resettlement lands of the public domain, natural resources shall not be alienated, and no license, concession, or lease for the exploration, development, exploitation, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for not more than twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases, beneficial use may be the measure and the limit of the grant."

[2] *Cariño v. Insular Government*, 212 US 449 (1909); *Valenton v. Marciano*, 3 Phil. 537 (1904); *Lee Hung Hok v. David*, G.R. No. L-30389, December 27, 1972, 48 SCRA 372, 377.

[3] 1986 U.P. Law Constitution Project, Vol. I, pp. 8-11.

[4] Executive Order No. 211 (July 10, 1987) and Executive Order No. 279 (July 25, 1987).

[5] Article II, Section 1, 1987 Provisional Constitution; Article XIII, Section 6, 1987 Constitution; *Tan v. Marquez*, G.R. No. 93288, October 25, 1990, Minute Resolution, En Banc.

[6] Published in the July 3, 1989 issue of the *Philippine Daily Inquirer*, a newspaper of general circulation, and became effective on July 18, 1989.

[7] Published in the December 21, 1990 issue of the *Philippine Daily Inquirer*, a newspaper of general circulation, and became effective on January 5, 1991.

[8] A non-stock and non-profit organization duly formed and existing under and by virtue of the laws of the Philippines with principal office at Suite 609 Don Santiago Building whose members include mining prospectors

and claimowners or claimholders.

[9] Rollo, pp. 46-48.

[10] A domestic corporation engaged in the business of marble mining with factory processing plant at 24 General Luis St., Novaliches, Quezon City. It has filed a Declaration of Location dated November 13, 1973 for a placer mine known as "MARGEL" located at Matitic, Norzagaray, Bulacan. It has been operating as a mining entity and exporting its finished products (marble tiles) by virtue of a Mines Temporary Permit issued by the DENR.

[11] Rollo, pp. 99-104.

[12] Rollo, p. 114.

[13] Presidential Decree No. 463, as amended, otherwise known as "The Mineral Resources Development Decree of 1974" promulgated on May 17, 1974.

[14] Section 7, Executive Order No. 279 provides:

All provisions of Presidential Decree No. 463, as amended, other existing mining laws, and their implementing rules and regulations, or parts thereof, which are not inconsistent with the provisions of this Executive Order, shall continue in force and effect."

[15] 11 Phil. 327, 330 (1908).

[16] 29 Phil. 120, 124 (1914).

[17] No. L-32166, October 18, 1977, 79 SCRA 450.

[18] De Leon v. Esguerra, G.R. No. L-78059, August 31, 1987, 153 SCRA 602.

[19] Record of the Constitutional Commission, Proceedings and Debate, Vol. III, p. 260.

[20] Article III, Section 10 of the 1987 Constitution provides:

"No law impairing the obligation of contracts shall be passed."

[21] 86 Phil. 50 (1950).

[22] 86 Phil. at 54-55.

[23] 120 Phil. 168 (1964).

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