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FIRST DIVISION

[G.R. No. 63528. September 9, 1996]

ATOK BIG-WEDGE MINING COMPANY, *petitioner*, *vs.* HON. INTERMEDIATE APPELLATE COURT and TUKTUKAN SAINGAN, *respondents*.

SYLLABUS

1. **CIVIL LAW; LAND REGISTRATION; MINING CLAIMS; RIGHT OF A LOCATOR OF A MINING CLAIM LOCATED AND PERFECTED UNDER THE PHILIPPINE BILL OF 1902 OVER THE LAND WHERE THE CLAIM IS FOUND; A LOCATOR OF A MINING CLAIM DOES NOT HAVE AN ABSOLUTE RIGHT OF OWNERSHIP THEREOF, BUT HAS MERELY A RIGHT TO POSSESS AND CLAIM THE SAME.**— We now proceed to resolve the controlling issue in this case: Whether or not the ownership of subject land had long been vested on petitioner after it had allegedly located and recorded its mining claim in accordance with the pertinent provisions of the Philippine Bill of 1902. This issue is certainly not a novel one. It has been first ruled upon by this court in the 1922 case of McDaniel *vs.* Apacible and Cuisia. There, applying American precedents, we stated: "*The moment the locator discovered a valuable mineral deposit on the lands located, and perfected his location in accordance with law, the power of the United States Government to deprive him of the exclusive right to the possession and enjoyment of the located claim was gone, the lands had become mineral lands and they were exempted from lands that could be granted to any other person. The reservations of public lands cannot be made so as to include prior mineral perfected located locations; and of course, if a valid mining location is made upon public lands afterward included in a reservation, such inclusion or reservation does not*

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affect the validity of the former location. By such location and perfection, the land located is segregated from the public domain even as against the Government. x x x." Nothwithstanding our ruling in the said cases, however, there came about thereafter a catena of cases where we declared that the rights of the holder of a mining claim located under the Philippine Bill of 1902, are not absolute or are not strictly of ownership. This declaration was a necessary premise in our affirmation of the constitutionality of P.D. No. 1214 in the 1987 case of Santa Rosa Mining Co., Inc. *vs.* Leido, Jr. (156 SCRA 1) where we stated: "*Mere location does not mean absolute ownership over the affected land or mining claim. It merely segregates the located land or area from the public domain by barring other would-be locators from locating the same and appropriating for themselves the minerals found therein. To rule otherwise would imply that location is all that is needed to acquire and maintain rights over a located mining claim. This, we cannot approve or sanction because it is contrary to the intention of the lawmaker that the locator should faithfully and consistently comply with the requirements for annual work and improvements in the located mining claim.*" Thus, it can be said (1) that the rights under the Philippine Bill of 1902 of a mining claim holder over his claim has been made subject by the said Bill itself to the strict requirement that he actually performs work or undertakes improvements on the mine every year anbd does not merely file his affidavit of annual assessment, which requirement was correctly identified and declared in E.O. No. 141; and (2) that the same rights have been terminated by P.D. No. 1214; a police power enactment, under which non-application for mining lease amounts to waiver of all rights under the Philippine Bill of 1902 and application for mining lease amounts to waiver of the right under said Bill to apply for patent. In the light of these substantial conditions upon the rights of a mining claim holder under the Philippine Bill fo 1902, there should remain no doubt now that such rights were not, in the first place, absolute or in the nature of ownership, and neither were they intended to be so.

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2. ID.; SEEMINGLY INCONSISTENT RULINGS OF THIS COURT ON THE CORRECT INTERPRETATION OF THE PHILIPPINE BILL OF 1902 IN RELATION TO E.O. NO. 141 AND P.D. 1214 INSOFAR AS THE RIGHTS OF MINING CLAIM HOLDERS ARE CONCERNED IS HEREBY RESOLVED.— This is not the first time either that we are asked to, in all awareness of the precedents, resolve these postulations of this court that are perceived to be contradictory. In the 1994 case of United Paracale Mining Company *vs.* Court of Appeals, (232 SCRA 663) posed before us by petitioner therein was the same question that herein private respondent asks us to resolve in the ultimate. We noted in that case: "*The query of petitioner: 'What is actually the right of a locator of mining claim located and perfected under the Philippine Bill of 1902. Does he have an absolute right of ownership, or merely a right to possess and claim?' Petitioner contends that there are two (2) conflicting rulings made by this Court on the same issue. In Director of Lands vs. Kalahi Investments, Inc. (169 SCRA 683), a locator of mining claims perfected under the Philippine Bill of 1902 has been held not to have an absolute right of ownership over said claims but merely a possessory right thereto. In Atok-Big Wedge Mining Company, Inc. vs. Court of Appeals and Liwan Consi (193 SCRA 71), however, a locator of mining claim perfected under the Philippine Bill of 1902, the Court has ruled, does have an absolute right of ownership over his claim being thereby removed from the public domain.*" In that case of *United Paracale Mining,* it would have been premature for us to rule on the query, not all indispensable parties therein having been joined. That is not the situation in this present controversy, however, and so we shall forthwith resolve the matter at hand once and for all. The earlier chronicle of the evolution of the mining laws, past and present, in this jurisdiction was not without a predetermined purpose. The detailing of the provisions of those laws, especially of the Philippine Bill of 1902, was certainly deliberate. It is undeniable at

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this point that the determination of the rights of a mining claim holder under the said Bill is best undertaken on the basis of the very source of those rights must be conceded for as long as such is statutorily and constitutionally sanctioned, for even vested rights may be taken away by the State in the exercise of its absolute police power. Under the Philippine Bill of 1902, the mining claim holder, upon locating and recording of his claim, has the right to acquire for himself all mineral deposits found within his claim to the exclusion of everyone, including the Government. Such rights are necessarily possessory as they are essentially utilitarian and exploitative. Such rights accruing to the mining claim locator are personal to him in the sense that no conclusion as to the nature of the land may definitively be made based solely on the fact that a mining a claim has been recorded as regards a particular land. However, insofar as his rights are exclusive and no other person may undertake mining activities on a recorded mining claim, unless the same has been abandoned or the works thereon not done, the mining locator's rights are also protected against adverse mining claims of third persons, He also has the right to immediately or eventually secure a patent on his mining claim and in the event that he postpones securing a patent, his rights to exclusive possession and exploitation of his mining claim subsist for as long as he complies with the continuing requirement of annually performing work or undertaking improvements at the mine site. Insofar as the Philippine Bill of 1902 does not provide a specific time within which the mining claim holder must secure a patent, his rights to possession and use of the mining claim.holder must secure a patent, his rights to possession and use of the mining claim holder must secure a patent, his rights to possession and use of the minin land appear to be unconditional, the option not all to secure a patent being available to him in the absence of a deadline or ultimatum therefor. The Philippine Bill of 1902, however, did not foreclose a subsequent act on the part of the State to limit the time within which the said patent must be secured under threat of forfeiture of

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rights provided for under the Philippine Bill of 1902. Thus, in the sense that the rights of a mining claim holder may in the future be curtailed by failure to obtain a patent, especially if we recall that Section 36 of the said Bill itself foretold the subsequent promulgation of regulations regardng mining claims, such rights cannot also be said to be truly unconditional or absolute.

3. ID.; RECORDING OF A MINING CLAIM; NOT AN OPERATIVE ACT OF CLASSIFYING LANDS INTO MINERAL LANDS, BUT ONLY OPERATES TO RESERVE TO THE REGISTRANT EXCLUSIVE RIGHTS TO UNDERTAKE MINING ACTIVITIES UPON THE LAND SUBJECT OF THE CLAIM.— We also learn from our reading of our past and present mining laws in their proper historical perspectives, that the process of recording mining claims could not have been intended to be the operative act of classifying lands into mineral lands. The recording of a mining claim only operates to reserve to the registrant exclusive rights to undertake mining activities upon the land subject of the claim. The power to classify lands into mineral lands could not have been intended under the Philippine Bill of 1902 to be vested in just anyone who records a mining claim. In fact, this strengthens our holding that the rights of a mining claimant are confined to possessing the land for purposes of extracting therefrom minerals in exclusion of any or other persons whose claims are subsequent to the original mining locator. Thus, if no minerals are extracted therefrom, notwithstanding the recording of the claim, the land is not mineral land and registration thereof is not precluded by such recorded claim. Thus, in the case at bench, the mining claimant, who had failed to comply with the annual minimum labor requirement, could not, all the more, be expected to have extracted minerals from the mining location. Utter lack of proof of even its potential deposits on the part of the petitioner, thus, does not surprise us at all.

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4. ID.; PETITION HAVING APPLIED FOR A MINING LEASE UNDER P.D. NO. 1214, IT HAS, IN EFFECT, WAIVED ITS RIGHT TO SECURE A PATENT.— Equally born out by the records is the fact that petitioner has indeed applied for a mining lease under P.D. No. 1214. For that reason, it has, in effect, waived its right to secure a patent and it shall have been governed, if private respondent's claim of adverse and open possession of the subject land for more than 30 years were not established, by P.D. No. 463 in its activities respecting its mining lease.

APPEARANCES OF COUNSEL

Antonio P. Barredo for petitioner.

The Solicitor General for public respondent.

Cating & Almora Law Office private respondent.

DECISION

HERMOSISIMA, JR., *J.*:

In the face of two sets of divergent rulings of the Supreme Court on the nature of the rights of mining claimants over the land where their claim is located, the parties herein seek a definitive ruling on the issue: What is actually the right of a locator of a mining claim located and perfected under the Philippine Bill of 1902 over the land where the claim is found? Does he have an absolute right of ownership thereof or does he have the mere right to possess and claim the same? Whose right to the land should, therefore, prevail: the mining claimant's or that of an applicant for land registration? Does the mere recording or location of a mining claim *ipso facto* and irreversibly convert the land into mineral land, notwithstanding the fact that the mining claimant failed to comply with the strict work requirement under the Philippine Bill of 1902?

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Petitioner Atok Big Wedge Mining Company appeals from the decision[1] of the Court of Appeals[2] which reversed the decision[3] of the then Court of First Instance of Baguio City[4] in a land registration case.[5] The court *a quo* denied and correspondingly dismissed the application for registration of title filed by private respondent Tuktukan Saingan, finding no merit in Saingan's claim of adverse, open and continuous possession in concept of an owner of the tract of land applied for by him, which happened to be claimed by petitioner as part of its mining claim duly recorded by the Mining Recorder of Benguet. Respondent appellate court found petitioner to have abandoned its mining claim over the said tract of land and, on the other hand, adjudged private respondent to be the owner thereof by virtue of his having possessed the same under a bona fide claim of ownership for at least thirty (30) years prior to the filing of his land registration application in 1965.

The court *a quo* made the following findings of fact:

"Applicant [private respondent] *seeks the registration of a parcel of land with an area of 41,296 square meters situated in the barrio of Lucnab, Itogon, Benguet, which is shown in survey plan Psu-209851 x x x.*

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[1] Promulgated on October 3, 1977 and penned by then Acting Presiding Justice Magno Gatmaitan; *Rollo*, pp. 16-20.

[2] Special First Division with members Acting Presiding Justice Magno Gatmaitan, and Associate Justices Samuel Reyes and Simeon Gopengco.

[3] Dated March 13, 1970 and penned by Judge Feliciano Belmonte; *Rollo*, pp. 37-39.

[4] Branch II, Second Judicial District.

[5] Land Reg. Case No. N-154/L.R.C. Rec. No. N-28065 in the Court of First Instance; CA-G.R. No. 48837-R in the Court of Appeals.

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The evidence for the applicant [private respondent] *who was 70 years old at the time he testified shows that he acquired the land from his father-in-law, Dongail, when he married his daughter; that he was then 18 years old; that at the time of his acquisition, it was planted with camotes, cassava [sic], langka, gabi, coffee and avocados; that he lived on the land since his marriage up to the present; that he has been paying the taxes during the Japanese occupation and even before it; that he was never disturbed in his possession. Supporting his oral testimony, applicant* [private respondent] *submitted tax declarations x x x both dated March 20, 1948, the former for a rural land and the latter for urban land and improvement therein. The receipt showing payment of the taxes on such tax declarations is dated Feb. 8, 1949 x x x. The said tax declarations x x x show that they cancel tax declaration No. 439 dated Feb. 10, 1947 which was presented by the Oppositor [petitioner] Atok Big Wedge Mining Company as its Exhibit 14, and the land tax under Exh. 14 was paid by applicant* [private respondent] *in 1947 x x x. Applicant* [private respondent] *has also submitted Exh. 'C', which indicates that all pre-war records of tax declarations and real property receipts of the municipality of Itogon where the property is located were burned and destroyed during the last world war.*

The Bureau of Lands and Bureau of Forestry, represented by the Provincial fiscal, oppose [sic] *application. The Atok Big Wedge Mining Company came in also as oppositor claiming that the land in question is within its mineral claims — Sally, Evelyn and Ethel x x x Atok Big Wedge Mining Company submitted Exhibits 6, 7 and 8, all showing that the annual assessment work of these mineral claims were maintained from 1932 to 1967 for Sally and Evelyn and from 1946 to 1967 for Ethel. It was likewise shown that these mineral claims were recorded in the mining recorder's office; Sally and Evelyn on Jan. 2, 1931 and Ethel on March 18, 1921 x x x."*[6]

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[6] Decision of the Court of First Instance (CFI), pp. 1-2; *Rollo*, pp. 37-38.

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The respondent appellate court additionally found that the tract of land in question "according to the evidence, Exh. 2, covers portion of mineral claims, Sally, Evelyn, and Ethel, the first two located by one Reynolds in 1931 and the last, also by Reynolds in 1921"[7] but "Atok x x x has not even been shown how connected with locator Reynolds."[8] Private respondent reiterates this fact in his Comment:

"x x x (T)he mining claims have become vested rights and properties of the locators, Messrs. H. I. Reynolds and E.J. Harrison.

However, the locators, Reynolds and Harrison, or the PETITIONERS herein, assuming that there is any relation between Atok Big Wedge Mining Co., and the locators, Reynolds and Harrison, have never shown that their rights have been preserved or remain vested.

x x x *x x x* *x x x*

Furthermore, when the land in question was registered in the office of the Mining Recorder in 1921, and 1931, respectively, the mineral claims covering the land in question namely: Sally, Evelyn and Ethel were in the name of the Locators E. J. Harrison and H. I. Reynolds. No evidence was ever presented as to how Petitioner herein obtained ownership over said claims during the hearing of this case in the Lower Court up to this time. It was not even shown how Petitioner herein, Atok Big Wedge Mining Co., is connected or related to locator Reynolds. x x x"[9]

Significantly, nothing in the subsequent pleadings filed by petitioner rebuts, disputes or proves otherwise, the aforecited issue raised by private respondent with regard

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[7] Decision of the Court Appeals, p. 2; *Rollo*, p. 17.

[8] *Id.*, p. 4; *Rollo*, p. 19.

[9] Comment dated May 26, 1983, pp. 2 & 5; *Rollo*, pp. 46 & 49.

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to its personality, interests and authority to oppose the application for registration filed by private respondent respecting land to which petitioner claims rights but as to which it is not the duly recorded mining locator.

The Director of Lands, thru the Office of the Solicitor General, opposed private respondent's application on the ground that the applicant did not have title in fee simple over the questioned land and that he had not exercised continuous, exclusive and notorious possession and occupation over the said land for at least thirty (30) years immediately preceding the filing of the application. However, the Solicitor General no longer joined petitioner in this ultimate appeal, the Solicitor General later conceding existence of private respondent's rights.

Petitioner's presentation of evidence proving registration of the mining claims of petitioner in the Mining Recorder of Benguet dating back to 1931, at the latest, notably about sixteen (16) years before private respondent declared the land in question for taxation purposes and thirty four (34) years before private respondent filed the land registration proceedings in 1965, apparently impressed the court *a quo*. And so it ruled in favor of petitioner as oppositor in the land registration proceedings, the court *a quo* ratiocinating in this wise:

"x x x (T)he mining claims were recorded ahead of the time when the applicant [private respondent] *declared the land for taxation purposes based on his documentary exhibits. So the evidence of the applicant* [private respondent] *cannot prevail over the documentary exhibits of the oppositor Atok Big Wedge Mining Company. The government oppositors adopted the evidence of the mining company.*

Moreover, if applicant [private respondent] *was already in possession and occupation of the land in the concept of owner, as claimed, it is strange that he did not oppose its survey when the mining company surveyed the area preparatory to its*

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recording in the mining recorder's office. The conclusion is that he was not yet there when the survey by the mining company was conducted or if he was already there the nature of his occupation was not in the concept of owner for otherwise he could have asserted it at the time.

The foregoing facts show that the mining company had established its rights long before applicant [private respondent] *asserted ownership over the land. The perfection of mining claims over the mineral lands involved segregate [sic] them from the public domain and the beneficial ownership thereof became vested in the locator."*[10]

The trial court having dismissed private respondent's application for registration on the ground that petitioners had already acquired a vested right over the subject land, private respondent appealed to the respondent court. The Director of Lands, thru the Solicitor General, adopted as his own, the appellee's brief filed by petitioner.

The respondent appellate court, on its part, correctly considered inadequate, however, the mere recording of petitioner's mining claims in the Mining Recorder of Benguet and the corresponding, albeit religious, payment of annual assessment fees therefor, to vest in petitioner ownership rights over the land in question. Truly, under Executive Order No. 141,[11] the payment of annual assessment fees is only proof of compliance with the charges imposed by law and does not constitute proof of actual assessment work on the mining land concerned. Respondent court ruled in this connection:

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[10] Decision of the CFI, p. 2; *Rollo*, p. 38.

[11] Entitled, "Declaring Unpatented Mining Claims Which Were Located More Than Thirty Years Ago and Which Have Not Met the Annual Assessment Requirement, as Abandoned and their Declarations of Location Cancelled," promulgated by then President Ferdinand Marcos on August 1, 1968.

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"x x x (I)t must be conceded that the same having been located and existing since 1921 and 1931, the rights of locator if correspondingly preserved, remained vested, — but as this Court also examines the evidence, what has been shown is that affidavits of assessment work had been filed, yes, from 1932 in connection with claim Sally and from 1933 as to Evelyn, and from 1936 as to claim Ethel, but tsn. would not show that in truth and in fact, there had been that assessment work on the claims, [sic] *witness Pelayo of Atok admits that he had not gone over the area x x x in fact he joined the company in 1962 only,* [sic] *in other words, all that Atok has shown as to assessment work is the affidavit thereon, but as Ex. Order 141 of 1 August,* [sic] *1968 has said:*

> *'(W)hat matters is* [sic] *maintaining and preserving possessory rights to the claims is the continuous performance of the required assessment work, not the filing of an affidavit which may be disproved by findings of* [sic] *the ground,'*

and here, the very fact that applicant has possessed continuously apparently without protest from Atok x x x must disprove the truth that locator or Atok had indeed done assessment work x x x."[12]

Private respondent, in support of respondent court's quoted findings, points out in his pleadings that:

"x x x The APPLICANT [private respondent] *constructed various improvements on the land consisting of his 3 residential houses, fruit trees, ricefields and other permanent improvements. x x x.*

x x x *x x x* *x x x*

On the other hand, the PETITIONER Mining company has not shown that it has introduced a single improvement ('assessment work') on the property. It has only paid the

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[12] Decision of the Court of Appeals, pp. 4-5; *Rollo*, pp. 19-20.

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minimum annual assessment required by law of P200.00 a year. There was no evidence, whatsoever, of its alleged 'factual' possession of the property. No assessment work was shown during the ocular inspection ordered by the Honorable Trial Court neither during the ocular inspection conducted by the Bureau of Forestry.

THIS ritual of paying the uniform sum of P200.00 a year for alleged assessment work is not enough evidence that such assessment work was actually made. It is precisely for this reason that Executive Order 141 dated August 1, 1968 was issued by the President of the Philippines. This order made it mandatory that it is not enough to pay P200.00 a year but there must be actual continuous assessment work done on the surface of the mineral claims. x x x" [Underscoring supplied by private respondent.][13]

Also, private respondent also additionally informs this court that:

"x x x PETITIONER Atok Big Wedge Mining Company has, on October 12, 1978, converted its application on mineral claims in question (SALLY, EVELYN and ETHEL) into mining lease only in compliance with Presidential Decree 1214. PETITIONER mining company is now a mere lessee of the mining claims. And as such lessee, it has no right on the surface rights of such mineral claims. An official certification to that effect by the Bureau of Mines & Geo-Sciences, Regional Office No. 1 of the City of Baguio is hereby attached as Annex 'A' and made integral part hereof x x x."[14]

an allegation which obviously clinches this case in his favor.

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[13] Rejoinder to the "Reply to Comment" dated October 26, 1983, pp. 2-4; *Rollo*, pp. 86-88.

[14] Reply Brief for Respondent dated June 22, 1984, p. 2; *Rollo*, p. 139.

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Respondent court having reversed the trial court's decision on the ground that private respondent had, by sufficient evidence, shown his right to registration over the contested parcel of land, petitioner elevated its cause to this court. The Director of Lands, however, did not join in petitioner's appeal. Thus, in a Manifestation and Motion, dated June 21, 1983,[15] the Director of Lands, thru the Solicitor General, acknowledged that "the respondent Court's decision has become final with respect to the Director of Lands."[16]

Petitioner, left to its own by the Director of Lands, cites the following grounds for the grant of the instant petition:

"*I*

THAT THE LAND IN QUESTION HAD LONG BEEN SEGREGATED FROM THE PUBLIC DOMAIN AND OWNERSHIP THERETO HAD LONG BECOME VESTED IN HEREIN PETITIONER WHEN ITS MINING CLAIMS IN QUESTION WERE REGISTERED IN THE OFFICE OF THE MINING RECORDER IN 1921 AND 1931 RESPECTIVELY.

II

THAT THE COURT OF APPEALS COMMITTED A GRAVE ABUSE OF DISCRETION IN FINDING THAT THE APPLICANT WAS IN CONTINUOUS OPEN AND ADVERSE POSSESSION OF THE LAND IN QUESTION."[17]

We find these arguments to be devoid of merit.

The records bear out that private respondent has been in possession of subject parcel of land in concept of owner for more than thirty (30) years

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[15] *Rollo*, pp. 56-59.

[16] Manifestation and Motion, dated June 21, 1983, p. 3; *Rollo*, p. 58.

[17] Petition dated April 22, 1983, p. 3; *Rollo*, p. 9.

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The court *a quo* made the following factual findings based on the testimony of private respondent:

"The evidence x x x shows that he [private respondent] *acquired the land from his father-in-law, Dongail, when he married his daughter; that he was then 18 years old; that at the time of his acquisition, it was planted with camotes, cassava* [sic], *langka, gabi, coffee and avocados; that he lived on the land since his marriage up to the present; that he has been paying the taxes during the Japanese occupation and even before it; that he was never disturbed in his possession. Supporting his oral testimony, applicant submitted tax declarations x x x both dated March 20, 1948, the former for a rural land and the latter for urban land and improvement therein."*[18]

Substantiating the aforecited testimonial evidence of private respondent's actual, adverse and continuous possession of the subject land for more than thirty (30) years are the observations of the court commissioner during the ocular inspection of the subject land on February 1, 1969, pertinent transcribed portions of which read as follows:

"Upon verification of the extend of the area applied for by the applicant which tallies with the plan on record, we find the following improvements;

The land applied for is almost 90% improved with numerous irrigated rice terraces newly planted to palay at the time of the ocular inspection and others planted to vegetables such as potatoes, banana plants, flowering plants and fruit trees such as mangoes, jackfruits, coffee plants, avocados and citrus — all fruit bearing.

Most of the fruit trees such as the mango trees are about one half (1/2) meter in diameter.

There are four houses owned by the applicant [private respondent] *and his children.*

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[18] Decision of the CFI, p. 1; *Rollo*, p. 37.

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There is a creek traversing the middle portion of the land which serves as irrigation for the numerous rice paddies.

Upon verification of the surrounding area which we did by hiking all the way, there are no assessment tunnels or any sign of mining activities.

x x x *x x x* *x x x*

There are earthen dikes and fences surrounding the property applied for.

It also appears that the surrounding area of the land applied for is also fully cultivated especially on the western portion, southern portion and also on the northern portion.

On the northwestern ridge are numerous terraces planted to various vegetables and on the edges of the property is a plantation of tiger grass used for brooms.

On the eastern slope are also numerous terraces planted to flowering plants and numerous banana plants.

There are only two (2) pine trees growing situated on the eastern slope of the land in question.

On the northern portion are terraces and ricefields and mango tree as well as banana plants.

At the northern slope of the land applied for is [sic] *fully cultivated with the exception of whatever portions are planted to bananas and tiger grass.*

The terraces at the time of the ocular inspection is planted to vegetables and flowering plants such as African dishes [sic].

On the northwestern portion of the land are numerous terraces planted to seasonal vegetable crops. The rest are planted to banana except the small steep portion planted to tiger grass to prevent the land from eroding.

On the western portion is a big irrigation canal with plenty of water which serve [sic] *as a water supply to irrigate the ricefields which are found around the property.*

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An estimate of around 90 to 120 big and small trees are scattered all over the property. Around the houses are full of fruit trees.

x x x *x x x* *x x x*

The mining compound of Itogon is very far from this place and this land is at the boundary of Baguio City and Itogon. That is why it is more suitable for residential and agricultural purposes. Nowhere do we find any mining work done, any cable or anything that would show any mining operation in this area.

Around the yard of the houses of the applicant are numerous coffee trees, jackfruits, pomelos, papaya, pineapples, banana plants, guava trees and carrots.

The orchard is fully planted to coffee trees. The area is estimated to be more than one hectare which is planted to coffee trees and other plants."[19]

Private respondent, it must be emphasized, offered in evidence in the land registration proceedings before the court *a quo*, tax declarations, dated March 20, 1948, and tax payment receipts, dated February 8, 1949.

Significantly, petitioner did not present any evidence in rebuttal of private respondent's aforestated claims of having acquired the subject land from his wife's father and having lived on the land since his marriage at the age of eighteen (18). Neither has petitioner taken exception to the aforecited observations of the court commissioner during the ocular inspection of the subject land. There is nary a showing in petitioner's numerous pleadings filed before us that there exists substantial basis for us not to believe petitioner's claims, and this is understandable, for petitioner largely anchored its cause on its alleged vested rights to its mining claims under the mandate of the

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[19] *Rollo*, pp. 155-157.

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Philippine Bill of 1902 and our rulings in *McDaniel vs. Apacible and Cuisia*[20] and the catena of cases subsequent thereto.

Considering the aforestated evidence borne out by the records of the instant case, their credibleness and the lack of adequate opposition thereto, we agree with respondent Court of Appeals that "a reading of tsn. would rather persuade that applicant [*private respondent*] had shown quite well that subject property had been in (the) continuous and adverse possession, first, of his predecessor-in-interest, Dongail and, after the death of the latter, (by respondent) himself, years before, that is, long before the outbreak of the last war."[21]

Petitioner is deemed to have abandoned his mining claims under E.O. No. 141 and P.D. No. 1214

All mineral lands, as part of the country's natural resources, belong to the Philippine State. This concept of *jura regalia* enshrined in past and present Philippine constitutions, has not always been the prevailing principle in this jurisdiction, however, the abundant resources within our coastal frontiers having in the past filled not just one colonizer's booty haul. Indeed, there was a time in our history when the mining laws prevailing in this jurisdiction were compromising, to say the least, of the Filipino people's inherent rights to their natural wealth.

Before the cession of the Philippine Islands to the United States under the Treaty of Paris, the prevailing mining law in the colony was the Royal Decree of May, 1867, otherwise known as The Spanish Mining Law.

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[20] 42 Phil. 749.

[21] Decision of the Court of Appeals, p. 3; *Rollo*, p. 18.

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In the advent of American occupation, the Philippines was governed by means of organic acts which were in the nature of charters serving as a Constitution of the occupied territory from 1900 to 1935.[22] Among the principal organic acts of the Philippines was the Act of Congress of July 1, 1902 through which the United States Congress assumed the administration of the Philippine Islands.

The Philippine Bill of 1902 contained provisions for, among many other things, the open and free exploration, occupation and purchase of mineral deposits and the land where they may be found. It declared "all valuable mineral deposits in public lands in the Philippine Islands, both surveyed and unsurveyed x x x to be free and open to exploration, occupation, and purchase, and the land in which they are found to occupation and purchase, by citizens of the United States, or of said Islands x x x."[23]

Any qualified person desiring to locate a mineral claim may enter upon the same and locate a plot of ground measuring, where possible, but not exceeding, one thousand feet in length by one thousand feet in breadth, in as nearly as possible a rectangular form.[24] Under the Philippine bill of 1902, the holder of the mineral claims so located is entitled to all the minerals which may lie within his claim, but he may not mine outside the boundary lines of his claims.[25] The mine claim locator must have his claim recorded in the mining recorder within thirty (30) days after the location thereof; otherwise, he will be deemed to have abandoned the same.[26]

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[22] Mendoza, Vicente V., *From McKinley's Instructions to the New Constitution*, 1978 Edition, p. 5.

[23] Philippine Bill of 1902, Section 21.

[24] *Id.*, Section 22.

[25] *Id.*, Section 27.

[26] *Id.*, Section 31.

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One of the continuing requirements for the subsistence of the mining claim is performance of not less than one hundred dollars' worth of labor or undertaking of improvements of the same value every year.[27] This is a strict requisite, the locator's failure to comply with which shall operate to open the claim or mine to relocation in the same manner as if no location of the same had even been made.[28] Unequivocal is the mandatory nature of the work or labor requirement on the mine that the Philippine Bill specifically designates the time when the work or labor required to be done annually on all unpatented mineral claims, shall commence.[29]

Subsequently, among a few laws passed amending the Philippine Bill of 1902 was Act No. 624 passed by the United States Philippine Commission and approved on February 7, 1903. Said Act prescribed regulations to govern the location and the manner of recording mining claims and the amount of work necessary to hold possession thereof. Such regulations reinforced the annual work or labor requirement of not less than one hundred dollars' worth as provided for in the Philippine Bill of 1902, in accordance with Section 36 thereof which limits the power of the United States Philippine Commission to make regulations but "not in conflict with the provision of this Act [i.e., the Philippine Bill of 1902], governing the location, manner of recording, and amount of work necessary to hold possession of a mining claim x x x."

On November 15, 1935, the Constitution of the Commonwealth took effect. The 1935 Constitution declared all natural resources of the Philippines, including mineral lands and minerals, to be property belonging to the State.[30]

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[27] *Id.*, Section 36.

[28] *Ibid.*

[29] *Ibid.*

[30] Section 1, Article XII, 1935 Constitution.

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However, as it turned out, not really all of the Philippines' natural resources were considered part of the public domain. Those natural resources, and for that matter, those mineral lands and minerals with respect to which there already was "any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this Constitution," were then considered outside the application of the *jura regalia* doctrine or at least not unconditionally or totally within the contemplation of said doctrine.

On November 7, 1936, the First National Assembly enacted Commonwealth Act No. 137, otherwise known as the Mining Act. In contradistinction with the Philippine Bill of 1902 which was patterned after the United States Federal Mining Acts which rejected the regalian doctrine, the Mining Act expressly adopted the regalian doctrine following the provisions of the 1935 Constitution. Since said Constitution necessarily prohibits the alienation of mining lands, the Mining Act granted only lease rights to mining claimants who are proscribed from purchasing the mining claim itself. These provisions of the Mining Act, however, were expressly inapplicable to mining claimants who had located and recorded their claims under the Philippine Bill of 1902.

The nationalism underlying the adoption of the regalian doctrine in the 1935 Constitution was further eroded by the amendment thereto which was adopted by the First Congress on September 18, 1946 and approved by a majority at the elections held on March 11, 1947. This amendment which came in the form of an "Ordinance Appended to the Constitution" is what is known as the "Parity Rights" amendment. It provided that, notwithstanding the adoption in the Constitution of the regalian doctrine and the proscription against aliens participating in the natural wealth of the nation, excepted therefrom were the citizens of the

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United States and its business enterprises which would have the equal right in the disposition, exploitation, development and utilization of our natural resources, among them, our mining lands and minerals for the period from July 4, 1946 to July 3, 1974.

In the meantime, the provisions of the Philippine Bill of 1902 regarding mining claims, insofar as the mining lands and mining claims acquired before the effectivity of the 1935 Constitution are concerned, continued to be in effect. Annual performance of labor or undertaking of improvements on the mine remained an annual requirement, non-compliance with which resulted in the mine becoming again open to relocation but now subject to the lease provisions of the Mining Act. The intention for this annual work requirement to be a strict prerequisite to maintenance of a claimant's rights under the Philippine Bill of 1902 apparently not lost on subsequent legislators, they took the same as an absolute prerequisite with grave consequences and believed it necessary to expressly enact a law[31] waiving this requirement during the period from January 1, 1952 to January 1, 1954 as the circumstances then necessitated the same.

The Philippine Bill of 1902 clearly required the annual performance of work on the mine or the undertaking of improvements thereon in order for the mine claim locator to continue enjoying all the rights accruing to him as such under the said Bill. This and nothing short of this was the requirement. The filing of affidavits of annual assessment work, which procedure is not even provided for in the Philippine Bill of 1902, is required only for purposes of proving that there had actually been work or improvements done. Such filing could not have been intended to replace

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[31] Republic Act No. 743.

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the actual work requirement, and nary is there a basis in law to support any conclusion to the contrary, notwithstanding what was appearing to be the practice of mine claim locators of annually filing affidavits of annual assessment but willfully not undertaking actual work or tangible improvement on the mine site.

On August 1, 1968, then President Marcos issued Executive Order (E.O.) No. 141. Whereas mining claim holders under the Philippine Bill of 1902 "x x x are of the impression that they may hold on to their claims indefinitely by the mere filing of affidavits of annual assessment work x x x," E.O. No. 141 precisely declared that "such impression is not correct, for what matters in maintaining and preserving possessory title to the claim is the continuous performance of the required assessment work, not the filing of an affidavit which may be disproved by findings on the ground." Consequently, E.O. No. 141 established the status of such unpatented mining claims which have not complied with the annual work requirement, as having been abandoned and open for relocation, their declarations of location being accordingly cancelled.

On January 17, 1973, the 1973 Constitution came into force and effect. Unlike the former Charter, the 1973 Constitution did not expressly qualify the application of the regalian doctrine as being subject to any right granted before the effectivity of the 1935 Constitution or the 1973 Constitution for that matter. It provided:

"SEC 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. x x x." [32]

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[32] Article XIV, 1973 Constitution.

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But the conditional application of the regalian doctrine under the 1973 Constitution could be found in Presidential Decree (P.D.) No. 463, enacted on May 17, 1974, which revised the Mining Act (C.A. No. 137). While the said decree declares that "x x x all mineral deposits in public or private lands x x x belong to the State, inalienably and imprescriptively x x x," it also recognizes whatever rights or reservations had already been existing with respect to certain mining lands,[33] apparently alluding to the rights of mining claim holders under the Philippine Bill of 1902.

Under the Philippine Bill of 1902, the procedure was that a mining claim locator need not apply for a patent soon after locating the mine. The patent may come later, and the said locator, for as long as he complies with the annual actual work requirement, enjoyed possessory rights with respect to such mining claim with or without a patent therefor. It has already been stated that under E.O. No. 141, unpatented mining claims shall be deemed abandoned upon a finding that the holders thereof had not been actually performing any work or labor or undertaking any improvement at the mine site notwithstanding their having religiously filed annual affidavits of assessment.

Even under P.D. 463 which was enacted in 1974, the possessory rights of mining claim holders under the Philippine Bill of 1902 remained effective for as long as said holders complied with the annual actual work requirement. But on October 14, 1977, P.D. No. 1214 required all the holders of unpatented mining claims to secure mining lease contracts under P.D. No. 463. Faced with the grave consequence of forfeiture of all their rights to their claims, holders of subsisting and valid patentable mining claims located under the Philippine Bill of 1902 were to file mining lease applications therefor within one

[33] Sections 3 and 5, Chapter II, Presidential Decree No. 463.

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(1) year from the effectivity of the said decree.[34] The filing of such mining lease applications was considered a waiver of the holders' rights to the issuance of mining patents for their claims.[35] Corollarily, non-filing of applications for mining lease by the holders thereof within the one-year period would cause the forfeiture of all their rights to their claims.[36]

Against the backdrop of the afore-chronicled evolution of the pertinent mining laws, past and present, in this jurisdiction, we now proceed to resolve the controlling issue in this case: Whether or not the ownership of subject land had long been vested on petitioner after it had allegedly located and recorded its mining claim in accordance with the pertinent provisions of the Philippine Bill of 1902.

This issue is certainly not a novel one. It has been first ruled upon by this court in the 1922 case of McDaniel *vs.* Apacible and Cuisia.[37] There, applying American precedents, we stated:

"The moment the locator discovered a valuable mineral deposit on the lands located, and perfected his location in accordance with law, the power of the United States Government to deprive him of the exclusive right to the possession and enjoyment of the located claim was gone, the lands had become mineral lands and they were exempted from lands that could be granted to any other person. The reservations of public lands cannot be made so as to include prior mineral perfected located locations; and of course, if a valid mining location is made upon public lands afterward included in a reservation, such inclusion or reservation does not affect the validity of the former location. By such location and perfection, the land

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[34] Section 1, Presidential Decree No. 1214.

[35] *Ibid.*

[36] *Ibid.*

[37] 42 Phil. 749.

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located is segregated from the public domain even as against the Government. x x x."[38]

We reiterated this ruling in the subsequent cases of Gold Creek Mining *vs.* Rodriguez (1938),[39] Salacot Mining Company *vs.* Abadilla (1939),[40] Salacot Mining Company *vs.* Rodriguez (1939),[41] Bambao *vs.* Lednicky (1961),[42] Comilang *vs.* Buendia (1967),[43] Benguet Consolidated, Inc. *vs.* Republic (1986), 44 Republic *vs.* Court of Appeals (1988),[45] and Atok-Big Wedge Mining Co., Inc. *vs.* Court of Appeals (1991).[46]

Notwithstanding our ruling in the aforecited cases, however, there came about thereafter a catena of cases where we declared that the rights of the holder of a mining claim located under the Philippine Bill of 1902, are not absolute or are not strictly of ownership. This declaration was a necessary premise in our affirmation of the constitutionality of P.D. No. 1214 in the 1987 case of Santa Rosa Mining Co., Inc. *vs.* Leido, Jr.[47] where we stated:

"Mere location does not mean absolute ownership over the affected land or mining claim. It merely segregates the located land or area from the public domain by barring other would-

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[38] *Id.*, p. 756.

[39] 66 Phil. 259.

[40] 67 Phil. 110.

[41] 67 Phil. 97.

[42] 1 SCRA 330.

[43] 21 SCRA 486.

[44] 143 SCRA 466.

[45] 160 SCRA 228.

[46] 193 SCRA 71.

[47] 156 SCRA 1.

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be locators from locating the same and appropriating for themselves the minerals found therein. To rule otherwise would imply that location is all that is needed to acquire and maintain rights over a located mining claim. This, we cannot approve or sanction because it is contrary to the intention of the lawmaker that the locator should faithfully and consistently comply with the requirements for annual work and improvements in the located mining claim."[48]

And our ruling there was upheld in the tradition of *stare decisis* in the subsequent cases of Director of Lands *vs.* Kalahi Investments, Inc. (1989),[49] Zambales Chromite Mining Company, Inc. *vs.* Leido, Jr. (1989),[50] Poe Mining Association *vs.* Garcia (1991),[51] United Paracale Mining Company, Inc. *vs.* De la Rosa (1993),[52] and Manuel *vs.* Intermediate Appellate Court (1995).[53]

While petitioner adamantly insists that there is only one construction of the provisions of the Philippine Bill of 1902 as regards his mining claim rights, and this is that the same are absolute and in the nature of ownership, private respondent posits the ultimate question of which between the aforecited seemingly inconsistent rulings is the correct interpretation of the Philippine Bill of 1902 in relation to E.O. No. 141 and P.D. 1214 insofar as the rights of mining claim holders under the said Bill are concerned.

This is not the first time either that we are asked to, in all awareness of the precedents, resolve these postulations of this court that are perceived to be contradictory. In the 1994 case of United Paracale Mining Company *vs.* Court

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[48] *Id.*, p. 9.

[49] 169 SCRA 683.

[50] 176 SCRA 602.

[51] 202 SCRA 222.

[52] 221 SCRA 108.

[53] 243 SCRA 552.

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of Appeals,[54] posed before us by petitioner therein was the same question that herein private respondent asks us to resolve in the ultimate. We noted in that case:

"The query of petitioner: 'What is actually the right of a locator of mining claim located and perfected under the Philippine Bill of 1902. Does he have an absolute right of ownership, or merely a right to possess and claim?'

Petitioner contends that there are two (2) conflicting rulings made by this Court on the same issue. In Director of Lands vs. Kalahi Investments, Inc. (169 SCRA 683), a locator of mining claims perfected under the Philippine Bill of 1902 has been held not to have an absolute right of ownership over said claims but merely a possessory right thereto. In Atok Big Wedge Mining Company, Inc. vs. Court of Appeals and Liwan Consi (193 SCRA 71), however, a locator of mining claim perfected under the Philippine Bill of 1902, the Court has ruled, does have an absolute right of ownership over his claim being thereby removed from the Public domain." [55]

In that case of *United Paracale Mining*, it would have been premature for us to rule on the query, not all indispensable parties therein having been joined. That is not the situation in this present controversy, however, and so we shall forthwith resolve the matter at hand once and for all.

The earlier chronicle of the evolution of the mining laws, past and present, in this jurisdiction was not without a predetermined purpose. The detailing of the provisions of those laws, especially of the Philippine Bill of 1902, was certainly deliberate. It is undeniable at this point that

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[54] 232 SCRA 663.

[55] *Id.*, p. 6652 Special First Division with members Acting Presiding Justice Magno Gatmaitan, and Associate Justices Samuel Reyes and Simeon Gopengco.

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the determination of the rights of a mining claim holder under the said Bill is best undertaken on the basis of the very source of those rights, that is, the Bill itself. And any alteration or change in the nature of those rights must be conceded for as long as such is statutorily and constitutionally sanctioned, for even vested rights may be taken away by the State in the exercise of its absolute police power.

Under the Philippine Bill of 1902, the mining claim holder, upon locating and recording of his claim, has the right to acquire for himself all mineral deposits found within his claim to the exclusion of everyone, including the Government. Such rights are necessarily possessory as they are essentially utilitarian and exploitative. Such rights accruing to the mining claim locator are personal to him in the sense that no conclusion as to the nature of the land may definitively be made based solely on the fact that a mining claim has been recorded as regards a particular land. However, insofar as his rights are exclusive and no other person may undertake mining activities on a recorded mining claim, unless the same has been abandoned or the works thereon not done, the mining locator's rights are also protected against adverse mining claims of third persons. He also has the right to immediately or eventually secure a patent on his mining claim and in the event that he postpones securing a patent, his rights to exclusive possession and exploitation of his mining claim subsist for as long as he complies with the continuing requirement of annually performing work or undertaking improvements at the mine site. Insofar as the Philippine Bill of 1902 does not provide a specific time within which the mining claim holder must secure a patent, his rights to possession and use of the mining land appear to be unconditional, the option not at all to secure a patent being available to him in the absence of a deadline or ultimatum therefor.

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The Philippine Bill of 1902, however, did not foreclose a subsequent act on the part of the State to limit the time within which the said patent must be secured under threat of forfeiture of rights provided for under the Philippine Bill of 1902. Thus, in the sense that the rights of a mining claim holder may in the future be curtailed by failure to obtain a patent, especially if we recall that Section 36 of the said Bill itself foretold the subsequent promulgation of regulations regarding mining claims, such rights cannot also be said to be truly unconditional or absolute.

We also learn from our reading of our past and present mining laws in their proper historical perspectives, that the process of recording mining claims could not have been intended to be the operative act of classifying lands into mineral lands. The recording of a mining claim only operates to reserve to the registrant exclusive rights to undertake mining activities upon the land subject of the claim. The power to classify lands into mineral lands could not have been intended under the Philippine Bill of 1902 to be vested in just anyone who records a mining claim. In fact, this strengthens our holding that the rights of a mining claimant are confined to possessing the land for purposes of extracting therefrom minerals in exclusion of any or all other persons whose claims are subsequent to the original mining locator. Thus, if no minerals are extracted therefrom, notwithstanding the recording of the claim, the land is not mineral land and registration thereof is not precluded by such recorded claim. Thus, in the case at bench, the mining claimant, who had failed to comply with the annual minimum labor requirement, could not, all the more, be expected to have extracted minerals from the mining location. Utter lack of proof of even its potential deposits on the part of the petitioner, thus, does not surprise us at all.

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Thus, it can be said (1) that the rights under the Philippine Bill of 1902 of a mining claim holder over his claim has been made subject by the said Bill itself to the strict requirement that he actually performs work or undertakes improvements on the mine every year and does not merely file his affidavit of annual assessment, which requirement was correctly identified and declared in E.O. No. 141; and (2) that the same rights have been terminated by P.D. No. 1214, a police power enactment, under which non-application for mining lease amounts to waiver of all rights under the Philippine Bill of 1902 and application for mining lease amounts to waiver of the right under said Bill to apply for patent. In the light of these substantial conditions upon the rights of a mining claim holder under the Philippine Bill of 1902, there should remain no doubt now that such rights were not, in the first place, absolute or in the nature of ownership, and neither were they intended to be so.

Applying the aforecited ruling to the facts of this case, we find that, not only has petitioner failed to sufficiently show compliance with actual annual work requirement on its mining claims but also that credible are the transcribed observations of the trial commissioner that nowhere on the subject land could be found tangible works or improvements of an extent that would have existed had petitioner really complied with the annual work requirement from 1931 when it allegedly first located said mining claims. In fact, no mining infrastructure or equipment of any sort can be found on the area. Understandable thus is the action of the Director of Lands not to further appeal from respondent court's decision, Director of Lands eventually conceding the subject land to be registrable, considering petitioner's non-performance of mining works thereon, private respondent's adverse possession of the subject land more than thirty (30) years and its use thereof for as many years solely for agricultural purposes.

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Equally borne out by the records is the fact that petitioner has indeed applied for a mining lease under P.D. No. 1214. For that reason, it has, in effect, waived its right to secure a patent and it shall have been governed, if private respondent's claim of adverse and open possession of the subject land for more than 30 years were not established, by P.D. No. 463 in its activities respecting its mining lease.

WHEREFORE, the petition is HEREBY DISMISSED, with costs against petitioner.

SO ORDERED.

Padilla (Chairman), Bellosillo, Vitug, and *Kapunan, JJ.*, concur.

SECOND DIVISION

[G.R. No. 91619. September 9, 1996]

PEOPLE OF THE PHILIPPINES, ***plaintiff-appellee,*** ***vs.*** **GAVINO L. PASAYAN,** ***accused-appellant.***

SYLLABUS

1. **CRIMINAL LAW; RAPE; REQUIREMENTS FOR AN ACCUSED TO BE CONVICTED SOLELY ON THE TESTIMONY OF THE COMPLAINING WITNESS.**— In rape cases, the accused may be convicted solely on the testimony of the complaining witness provided such testimony is credible, natural, convincing and otherwise consistent with human nature and the course of things.