Supreme Court E-Library

THIRD DIVISION

[G.R. No. 222637; April 20, 2022]

ATOK GOLD MINING COMPANY, INC., represented by its Vice-President for Operations, ENGINEER ROGELIO G. FLORES, *Petitioner*, *v.* **LILY G. FELIX; THE HEIRS OF LYDIA F. BAHINGAWAN; THE PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICER (PENRO) FOR BENGUET; THE COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICER (CENRO) FOR BAGUIO CITY; and THE REGISTER OF DEEDS FOR BENGUET,** *Respondents*.

D E C I S I O N

LOPEZ, J., *J.*:

Before this Court is the Petition for Review on *Certiorari*[1] filed by Atok Gold Mining Company, Inc. (*AGMCI*) challenging the Decision[2] dated August 14, 2015 and the Resolution[3] dated January 21, 2016 of the Court of Appeals (*CA*) in CA-G.R. CV No. 102865, which affirmed the Decision[4] dated May 26, 2014 of the Regional Trial Court (*RTC*), Branch 62, La Trinidad, Benguet, that dismissed its complaint for annulment of title.

As culled from the CA Decision, the facts of the case show that —

AGMCI filed a complaint for the annulment of the following documents, to wit: *(a)* Patent No. 131106-97-622 and the title

---

1 *Rollo*, pp. 3-19.

2 Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with Associate Justices Normandie B. Pizarro and Agnes Reyes-Carpio concurring; *id*. at 27-37.

3 *Id*. at 40-42.

4 Penned by Judge Danilo P. Camacho; *id*. at 78-108.

Supreme Court E-Library

issued pursuant thereto, particularly Katibayan ng Orihinal na Titulo Blg. P-6554 in the name of the late Lydia Bahingawan; and *(b)* Patent No. 131106-97-690 and the title issued pursuant thereto, particularly Katibayan ng Orihinal na Titulo Blg. P-6560 in the name of Lily G. Felix. AGMCI alleged that the said free patents and certificates of title were secured or issued through misrepresentation and unlawful methods.[5]

AGMCI averred that it is a holder of valid and subsisting mineral claims including the disputed mineral land of Blue Jay Fraction in Itogon, Benguet. Accordingly, Gus Peterson located the Blue Jay Fraction in 1924 under the Philippine Bill of 1902 and thereafter sold his mineral claim to AGMCI's predecessor, Atok Big Wedge Co., Inc. (*Atok Big Wedge*). Since the inception of its mining operations sometime in 1935, AGMCI, through its predecessor-in-interest, took possession of the mineral land and has been paying taxes therefor.[6]

In 1977, the Bureau of Mines granted Atok Big Wedge's application for the availment of rights and privileges granted by Presidential Decree (*P.D.*) No. 463. Meanwhile, Atok Big Wedge continued to perform work obligations on Blue Jay Fraction under the said decree.[7]

Atok Big Wedge thereafter applied for a Mineral Production Sharing Agreement over its mineral claims including the contested mineral land. In 2001, Atok Big Wedge assigned its Application for Production Sharing Agreement (*APSA*) to the AGMCI. Thus, at the time of filing of the complaint, AGMCI held the Blue Jay Fraction as a valid and existing mining claim. The Department of Environment and Natural Resources (*DENR*) even issued an area clearance covering AGMCI's APSA.[8]

In their Answer, the Provincial Environment and Natural Resources Office (*PENRO*) for Benguet, and the City Environment

---

5 *Rollo*, p. 28.

6 *Id.*

7 *Id.*

8 *Id.* at 28-29.

Supreme Court E-Library

and Natural Resources Office (*CENRO*) and Register of Deeds, both for Baguio City, maintained that they have issued the challenged free patents in accordance with law. Furthermore, AGMCI has no right on the mineral claim over which the land covered by the free patents overlap. Lily Felix (*Felix*) and the heirs of Lydia Bahingawan (*heirs of Bahingawan*), on the other hand, filed a motion to dismiss averring that AGMCI has no cause of action against them inasmuch as its complaint is already barred by the statute of limitations. They advanced the following arguments: ***First***, neither the original locator, Gus Peterson, nor Atok Big Wedge obtained patent over the Blue Jay Fraction. Thus, the disputed mineral claim remained patentable until the 1970s. ***Second***, in 1977, Atok Big Wedge applied for and was granted an Order of Availment of Rights over its patentable mining claims. Later on, it filed an amended APSA No. 076 but the same was denied. ***Third***, they assert that their occupation and cultivation of their respective parcels, first through their grandparents and parents, then by themselves, was open, in the concept of owners, continuous, public and known to AGMCI. In 1996, they applied for and was thenceforth issued the corresponding free patents and titles over their respective areas.[9]

In a Resolution dated October 26, 2005, Presiding Judge Edgardo B. Diaz de Rivera, Jr. of the RTC, Branch 10, La Trinidad, Benguet, granted the motion to dismiss. AGMCI moved for the reconsideration of the said Resolution, but the same was denied.[10] The case was thereafter elevated to the CA.

On November 21, 2007, the CA granted the appeal filed by AGMCI. It ruled that AGMCI is the proper party to institute the complaint. Having legal interest over the subject property, it may file the instant case to protect its alleged pre-existing right of ownership and/or possession over the subject land. Thereafter, the CA denied the motion for reconsideration of Felix and the heirs of Bahingawan.[11]

---

[9] *Id.* at 29.

[10] *Id.*

[11] *Id*. at 20-30.

Supreme Court E-Library

The aforesaid CA Decision and Resolution were affirmed by this Court in a Resolution dated March 30, 2009.[12]

With these developments, the case was remanded to the RTC, Branch 62 of La Trinidad, Benguet. In its May 26, 2014 Decision, it dismissed AGMCI's complaint for lack of merit. The pertinent portion of the decision reads:

> x x x But as discussed above, the contention of plaintiff that it is the absolute owner of Blue Jay Fraction mineral claims is not true under the law. It is not also true that Blue Jay Fraction mineral claim was under the exclusive possession of plaintiff because it was established that the private defendants and their predecessors-in-interest were also in possession of portions thereof and has been in occupation and cultivation of the said portions since even before the Second World War. There is likewise no evidence on record to establish the plaintiff's allegation and contention that in securing their free patent and titles over their parcels of land, the private defendants committed fraud or misrepresentation. To the contrary, it was established that the private defendants complied with all the requirements of the law in the filing of their application, and all the procedural safeguards set under the law were complied with. x x x[13]

Aggrieved, AGMCI filed an appeal with the CA. Then in a Decision dated August 14, 2015, the CA affirmed the RTC.

The CA did not sustain AGMCI's claim over the mining claims on the basis merely of finding them pursuant to the provisions of the Philippine Bill of 1902. It emphasized that merely finding the location of the mining claims does not mean absolute ownership over the affected land or the mining claim. Moreover, 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 CA further found that AGMCI's complaint partook the nature of an action for reversion, which it had no personality to file. The primary objective of an action for reversion is the annulment or cancellation of the certificate of title and the resulting reversion of the land covered by the title to the State. Thus, even if Felix and the heirs of Bahingawan acquired

---

[12] *Id.* at 30.

[13] *Id.* at 28-30. (Citations omitted)

Supreme Court E-Library

their free patents and titles in bad faith, as AGMCI stressed in their complaint, only the State can institute such reversion proceedings. Nonetheless, the CA affirmed the RTC when it found nothing fraudulent in the processing and grant of the free patent to Felix and the heirs of Bahingawan. Since AGMCI was not the owner of the disputed property, it had no cause of action in the instant case.[14]

AGMCI filed a motion for reconsideration,[15] which was denied by the CA in a Resolution[16] dated January 21, 2016.

Thus, resort to this present petition for review on *certiorari*.

The core issue to be resolved is whether the CA gravely erred in affirming the Decision of the RTC, which dismissed petitioner's complaint for lack of merit.

The crux of the present controversy is the alleged nullity of private respondents' free patents, and the certificates of title issued pursuant thereto, for having been fraudulently obtained.

Petitioner asserts that public respondents are prohibited from awarding a lot as a free patent to a person when the parcel is covered by a valid and existing mineral claim under the DENR-Mines and Geosciences Bureau (*MGB*) in favor of another.[17] Even assuming that its rights are not equivalent to ownership, petitioner claims that it still had rights over the claims that not even public respondents could take away without proper notice and due process.[18]

Private respondents, on the other hand, counter that the surface of the Blue Jay Fraction mining claim was already an alienable land of the public domain when the DENR processed

---

[14] *Id*. at 31-36.

[15] *Id*. at 110-119.

[16] *Id*. at 40-42.

[17] *Id*. at 8.

[18] *Id*. at 11.

Supreme Court E-Library

and issued the free patents to them.[19] Thus, the DENR merely carried out its mandate to exercise supervision and control over alienable and disposable lands of the public domain and mineral resources.[20] They also echo the CA by maintaining that petitioner is essentially instituting a suit for reversion, which only the State can commence.[21] Since the surface of the Blue Jay Fraction was a public, and not a private land, the nullification of patents and titles would have the effect of reverting the lands back to the public domain.[22] As for public respondents, they reiterate that petitioner has no right over the disputed properties, their right being merely confined to possession, for purposes of extracting minerals therefrom.[23] Finally, they invoke the protective mantle of the presumption of regularity in the performance of their functions.[24]

At the outset, it bears noting that there are two requirements to successfully pursue a cause of action for declaration of nullity of free patent and certificate of title: (1) the plaintiff's ownership of the contested lot prior to the issuance of such free patent and certificate of title; and (2) the defendant's fraud or mistake, as the case may be, in successfully obtaining these documents of title over the parcel of land claimed by the plaintiff.[25] In *Heirs of Kionisala v. Heirs of Dacut*,[26] the Court differentiated an action for reversion from an ordinary civil action for declaration of nullity of free patents and certificates of title, thus:

> An ordinary civil action for declaration of nullity of free patents and certificates of title is not the same as an action for reversion. The difference between them lies in the allegations as to the character of ownership of the realty whose title is sought to be nullified. In an action

---

19 *Id*. at 181.

20 *Id*.

21 *Id.* at 184.

22 *Id*.

23 *Id*. at 203.

24 *Id*. at 205.

25 *Heirs of Kionisala v. Heirs of Dacut*, 428 Phil. 249, 260 (2002).

26 Supra.

Supreme Court E-Library

for reversion, the pertinent allegations in the complaint would admit State ownership of the disputed land. Hence[,] in *Gabila v. Barriga* where the plaintiff in his complaint admits that he has no right to demand the cancellation or amendment of the defendant's title because even if the title were canceled or amended the ownership of the land embraced therein or of the portion affected by the amendment would revert to the public domain, we ruled that the action was for reversion and that the only person or entity entitled to relief would be the Director of Lands.

On the other hand, ***a cause of action for declaration of nullity of free patent and certificate of title would require allegations of the plaintiff's ownership of the contested lot prior to the issuance of such free patent and certificate of title as well as the defendant's fraud or mistake, as the case may be, in successfully obtaining these documents of title over the parcel of land claimed by plaintiff***. In such a case, the nullity arises strictly not from the fraud or deceit but from the fact that the land is beyond the jurisdiction of the Bureau of Lands to bestow and whatever patent or certificate of title obtained therefor is consequently void *ab initio*. The real party in interest is not the State but the plaintiff who alleges a pre-existing right of ownership over the parcel of land in question even before the grant of title to the defendant. In *Heirs of Marciano Nagano v. Court of Appeals*, we ruled —

> x x x from the allegations in the complaint x x x private respondents claim ownership of the 2,250 square meter portion for having possessed it in the concept of an owner, openly, peacefully, publicly, continuously and adversely since 1920. This claim is an assertion that the lot is private land. x x x Consequently, merely on the basis of the allegations in the complaint, the lot in question is apparently beyond the jurisdiction of the Director of the Bureau of Lands and could not be the subject of a Free Patent. Hence, the dismissal of private respondents' complaint was premature and trial on the merits should have been conducted to thresh out evidentiary matters. It would have been entirely different if the action were clearly for reversion, in which case, it would have to be instituted by the Solicitor General pursuant to Section 101 of C.A. No. 141. x x x[27]

---

[27] *Id.* at 260-261, citing *Gabila v. Barriga*, 148-B Phil. 615 (1971) and *Nagano v. Court of Appeals*, 346 Phil. 724 (1997). (Emphasis supplied; citations omitted)

Supreme Court E-Library

Unfortunately, petitioner failed to satisfy both requirements. As found by the RTC, and later affirmed by the CA, petitioner failed to prove its ownership over the Blue Jay Fraction and private respondents' fraud in obtaining their free patents.

This Court, not being a trier of facts, finds nothing in the records to warrant a reversal of the RTC's findings.

Petitioner failed to prove its ownership over the Blue Jay Fraction

Here, the RTC found that the contention of petitioner that it has become the absolute owner of Blue Jay Fraction mineral claim by virtue of locating the same by its predecessor-in-interest, Gus Peterson, is not really true.[28] This must be so, for well-settled is the rule that mere location does not mean absolute ownership over the affected land or the mining claim.[29] The Court has ruled in *Santa Rosa Mining Company, Inc. v. Hon. Leido, Jr., et al.*:[30]

> The cases cited by petitioner, true enough, recognize the right of a locator of a mining claim as a property right. This right, however is not absolute. It is merely a possessory right, more so, in this case, where petitioner's claims are still unpatented. They can be lost through abandonment or forfeiture or they may be revoked for valid legal grounds. The statement in *McDaniel v. Apacible* that "There is no pretense in the present case that the petitioner has not complied with all the requirements of the law in making the location of the mineral claims in question, or that the claims in question were ever abandoned or forfeited by him," confirms that a valid mining claim may still be lost through abandonment or forfeiture.
>
> x x x x
>
> Mere location does not mean absolute ownership over the affected land or the mining claim. It merely segregates the located land or area from the public domain by barring other would-be locators from locating

---

[28] *Rollo*, pp. 99-100.

[29] *Santa Rosa Mining Company, Inc. v. Hon. Leido, Jr., et al.*, 240 Phil. 1, 9 (1987).

[30] *Supra*, at 7, citing *McDaniel v. Apacible*, 42 Phil. 749 (1922).

Supreme Court E-Library

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.[31]

It bears emphasis that petitioner's interest over the Blue Jay Fraction revolves around their alleged mining claim. In its complaint, petitioner claimed that being the assignee of all the assets and properties of Atok Big Wedge Mining Company located in Itogon, Benguet Province, it has become the owner of Blue Jay Fraction mineral claim.[32] Citing *McDaniel v. Apacible*,[33] petitioner asserts that such ownership and possessory rights are as good as though secured by a patent.[34]

Petitioner, however, cannot hide behind the doctrine galvanized by the Court in *McDaniel*. A mining claim under the Philippine Bill of 1902 does not vest immediately upon mere location thereof.[35] For the law to apply, it must be established that the mining claim had been perfected when the Philippine Bill of 1902 was the operative law.[36] In *Apex Mining Co, Inc. v. Southeast Mindanao Gold Mining Corp., et al.*,[37] the Court explained:

Gleaned from the ruling on the foregoing cases is that for this law to apply, it must be established that the mining claim must have been perfected when the Philippine Bill of 1902 was still in force and effect. This is so because, unlike the subsequent laws that prohibit the alienation of mining lands, the Philippine Bill of 1902 sanctioned the alienation of mining lands to private individuals. The Philippine Bill of 1902 contained provisions for, among many other things, the open and

---

31 *Id.* at 7-9. (Citations omitted)

32 *Rollo*, pp. 45-46; 96.

33 *Supra* note 30.

34 *Rollo*, p. 97.

35 *Apex Mining Co, Inc. v. Southeast Mindanao Gold Mining Corp., et al.*, 620 Phil. 100, 123 (2009).

36 *Id.*

37 *Supra* note 35.

Supreme Court E-Library

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." Pursuant to this law, the holder of the mineral claim is entitled to all the minerals that may lie within his claim, provided he does three acts: First, he enters the mining land and locates a plot of ground measuring, where possible, but not exceeding, one thousand feet in length by one thousand feet in breadth, in as nearly a rectangular form as possible. Second, the mining locator has to record the mineral claim in the mining recorder within thirty (30) days after the location thereof. Lastly, he must comply with the annual actual work requirement. Complete mining rights, namely, the rights to explore, develop and utilize, are acquired by a mining locator by simply following the foregoing requirements.

With the effectivity of the 1935 Constitution, where the *regalian* doctrine was adopted, it was declared that all natural resources of the Philippines, including mineral lands and minerals, were property belonging to the State. Excluded, however, from the property of public domain were the mineral lands and minerals that were located and perfected by virtue of the Philippine Bill of 1902, since they were already considered private properties of the locators.

Commonwealth Act No. 137 or the Mining Act of 1936, which expressly adopted the *regalian* doctrine following the provision of the 1935 Constitution, also proscribed the alienation of mining lands and granted only lease rights to mining claimants, who were prohibited from purchasing the mining claim itself.

When Presidential Decree No. 463, which revised Commonwealth Act No. 137, was in force in 1974, it likewise recognized the *regalian* doctrine embodied in the 1973 Constitution. It declared that all mineral deposits and public and private lands belonged to the state while, nonetheless, recognizing mineral rights that had already been existing under the Philippine Bill of 1902 as being beyond the purview of the *regalian* doctrine. The possessory rights of mining claim holders under the Philippine Bill of 1902 remained intact and effective, and such rights were recognized as property rights that the holders could convey or pass by descent.[38]

---

[38] *Id*. at 124-125. (Emphasis and citations omitted)

Supreme Court E-Library

Here, petitioner neither alleged nor proved that its mining rights had been perfected and completed when the Philippine Bill of 1902 was still in force and effect. Undeniably, this is a factual issue outside the scope of the Court's jurisdiction. As summarized by the RTC, the parties' documentary and testimonial evidence show the following facts:

(a) Plaintiff Atok Gold's predecessor-in-interest Gus Peterson located and staked the Blue Jay Fraction mineral claim on April 16, 1924, pursuant to the provisions of the Philippine Bill of 1902.

(b) In November 1931, Gus Peterson sold the Blue Jay Fraction, together with ten (10) other mineral claims, in favor of then Big Wedge Mining Co. which later became the Atok Big Wedge Mining Co.

(c) Atok Big Wedge Mining Co., developed and operated its mineral claims in Itogon, Benguet, including the Blue Jay Fraction, wherein its underground portal was located and some structures and infrastructures were constructed.

(d) Neither the original locator, Gus Peterson, nor Atok Big Wedge obtained patent over Blue Jay Fraction and it remained patentable mineral claim until the 1970s.

(e) As certified to by the Bureau of Mines in Exhibit "F-2" Atok Big Wedge, and later Atok Gold, filed Affidavits of Annual Work Obligation, covering its 75 mineral claims in Itogon, Benguet for the years 1975 to 2010.

(f) Atok Big Wedge also applied for and was granted an Order of Availment of Rights over its patentable mineral claims pursuant to P.D. 463, in July 1977; and in September 1997, it filed an Amended Application for Mineral Production Sharing Agreement (APSA No. 076) but the same was denied in February 2011, and a Motion for Reconsideration of the denial was filed.

x x x[39]

Whether petitioner has fully complied with the requirements of Sections 22,[40] 31,[41] and 36[42] of the Philippine Bill of 1902 is

---

[39] *Rollo*, pp. 93-A to 94.

[40] Section 22. That mining claims upon land containing veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other

Supreme Court E-Library

unclear. Without proof, the location of a mining claim remains just that — a mere location — which, as *Santa Rosa* has enunciated, is a possessory right that does not equate to absolute ownership over the affected land. In any event, *Atok Big Wedge Mining Company*

---

valuable deposits, located after the passage of this Act, whether located by one or more persons qualified to locate the same under the preceding section, shall be located in the following manner and under the following conditions: Any person so qualified desiring to locate a mineral claim shall, subject to the provisions of this Act with respect to land which may be used for mining, 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; that is to say: All angles shall be right angles, except in cases where a boundary line of a previously surveyed claim is adopted as common to both claims, but the lines need not necessarily be meridional. In defining the size of a mineral claim, it shall be measured horizontally, irrespective of inequalities of the surface of the ground.

[41] Section 31. That every person locating a mineral claim shall record the same with the provincial secretary or such other officer as by the Government of the Philippine Islands may be described as mining recorder of the district within which the same is situated, within thirty days after the location thereof. Such record shall be made in a book to be kept for the purpose in the office of the said provincial secretary or such other officer as by said Government described as mining recorder, in which shall be inserted the name of the claim, the name of each locator, the locality of the mine, the direction of the location line, the length in feet, the date of location, and the date of the record. A claim which shall not have been recorded within the prescribed period shall be deemed to have been abandoned.

[42] Section 36. That the United States Philippine Commission or its successors may make regulations, not in conflict with the provision of this Act, governing the location, manner of recording, and amount of work necessary to hold possession of a mining claim, subject to the following requirements: On each claim located after the passage of this Act, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year: Provided, That upon a failure to comply with these conditions the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives have not resumed work upon the claim after failure and before such location. x x x The period within which the work required to be done annually on all unpatented mineral claims shall commence on the first day of January succeeding the date of location of such claim.

Supreme Court E-Library

v. Intermediate Appellate Court[43] has settled, once and for all, that the rights of a mining claim holder under the Philippine Bill of 1902 "were not, in the first place, absolute or in the nature of ownership, and neither were they intended to be so."[44]

Petitioner maintains that when public respondents awarded free patents to private respondents over the Blue Jay Fraction, petitioner's possessory rights as holder of the mining claim over the land were impinged.[45] Unlike in *Atok Big Wedge*, where the Court considered the petitioner therein to have abandoned its mining claims, petitioner in this case had a valid and existing mining claim at the time the lots were awarded to private respondents.[46]

Moreover, this Court is not persuaded that a mere mining claim is sufficient for the trial court to annul private respondents' free patents and the certificates of title issued pursuant thereto. It bears pointing out that petitioner has instituted an action for annulment of certificates of title, which, as earlier intimated, requires it to prove no less than its ownership over the contested lots prior to the issuance of the free patents and certificates of title to private respondents.[47] Needless to say, it behooved upon petitioner to prove not just a sheer possessory right or a valid and existing mining claim, but its ownership over the contested lot prior to the issuance of the free patents and certificates of title.

It does not escape the Court's attention that per Certification[48] dated February 8, 2005 issued by the Regional Director of the DENR-MGB, the mining claims of Atok Big Wedge "are valid and existing in so far as documentary requirements are concerned."[49] Indeed, they do not enumerate approved lease

---

43 330 Phil. 244 (1996).

44 *Id.* at 269.

45 *Rollo*, p. 10.

46 *Id*. at 10-11.

47 *Heirs of Kionisala v. Heirs of Dacut, supra* note 25.

48 *Id*. at 58.

49 *Id*.

Supreme Court E-Library

applications or mineral production sharing agreements, but only pending lease applications, registration of approved availment and filing of Mineral Production Sharing Agreement applications, and filing of an amended Mineral Production Sharing Agreement, among others.[50]

However, inasmuch as petitioner had been granted an Order of Availment of Rights under P.D. No. 463,[51] the records are bereft of any mining lease contract[52] executed between petitioner, or even Atok Big Wedge, and the government over the Blue Jay Fraction.

Even assuming *arguendo* that petitioner's Order of Availment of Rights under P.D. No. 463 is equivalent to a mining lease — as petitioner would have it — its rights are limited to that of a lessee at most. Section 44 of P.D. No. 463 provides, among others, that mining lease rights cover only the right to extract all mineral deposits found on or underneath the service of the lessee's mining claims covered by the lease, continued vertically downward, with a proviso that in granting any lease under the Decree, the Government reserves the right to lease, or otherwise dispose of the surface of the lands embraced within such lease which is

---

[50] *Id*.

[51] *Id*. at 89.

[52] Section 40. *Issuance of Mining Lease Contract*. — If no adverse claim is filed within fifteen (15) days after the first date of publication, it shall be conclusively presumed that no such adverse claim exists and thereafter no objection from third parties to the grant of the lease shall be heard, except protest pending at the time of publication, and the Secretary shall approve and issue the corresponding mining lease contract after the area has been verified as to its mineralization and the due execution of the lease survey, which contract shall be for a period not exceeding twenty-five (25) years, renewable under such terms and conditions as may be provided by law for another period not exceeding twenty-five (25) years. Upon the expiration of the lease, the operation of the mine may be undertaken by the Government through one of its agencies or through a qualified independent contractor. The contract for the operation of a mine by an independent contractor shall be awarded to the highest bidder in a public bidding held after due publication of the notice thereof: Provided, That the lease shall have the right to equal the highest bid upon reimbursement of all reasonable expenses of the highest bidder.

Supreme Court E-Library

not needed by the lessee in extracting and removing the mineral deposits from his/her mining claims. The provision reads:

> Section 44. *Mining Lease Rights*. — A mining lease contract shall grant to the lessee, his heirs, successors, and assigns the right to extract all mineral deposits found on or underneath the surface of his mining claims covered by the lease, continued vertically downward; to remove, process, and otherwise utilize the mineral deposits for his own benefit; and to use the lands covered by the lease for the purpose or purposes specified therein: Provided, however, That the Secretary shall reverse the right to grant and use easements in, over, through, or upon the said claims as may be needed by other claim owners or lessees for right-of-way to enable them to have access to and/or facilitate the operation of, their mining claims: Provided, further, That in case of conflict of interest between claim owners for this purpose the Director is hereby authorized to mediate; Provided, furthermore, That in granting any lease under this Decree the Government reserves the right to lease, or otherwise dispose of the surface of the lands embraced within such lease which is not needed by the lessee in extracting and removing the mineral deposits from his mining claims, or in the beneficiation of the ores extracted therefrom: Provided, finally, That a lessee may on his own or through the Government, enter into a service contract with a qualified domestic or foreign contractor for the exploration, development and exploitation of his claims and the processing and marketing of the product thereof, subject to the rules and regulations that shall be promulgated by the Director, with the approval of the Secretary, and on the condition that if the service contractor will provide the necessary financial and technical resources, he may be paid from the proceeds of the operation not exceeding forty per centum (40%) thereof. Service contracts shall be approved by the Secretary upon recommendation of the Director."

Clearly, even with a mining lease contract in place, the government can still lease or dispose of the surface of the lands embraced within such lease should it decide to do so. More importantly, Section 97 of P.D. No. 463 provides that mining lease contracts cannot be transferred, assigned, or subleased without the prior approval of the Secretary. It states:

> Section 97. *Assignment of Mining Rights*. — A mining lease contract or any interest therein shall not be transferred, assigned, or subleased without the prior approval of the Secretary: Provided, That such transfer, assignment or sublease may be made only to a qualified person possessing

Supreme Court E-Library

the resources and capability to continue the mining operations of the lessee and that the assignor has complied with all the obligations of the lease: Provided, further, That such transfer or assignment shall be duly registered with the office of the mining recorder concerned.

Although the records reveal that Atok Big Wedge transferred all its rights, title, and interest in the Blue Jay Fraction to petitioner through a Subscription Agreement dated November 14, 2001, which was registered with the DENR-MGB, CAR,[53] it does not disclose whether Atok Big Wedge transferred or assigned the same to petitioner with the Secretary's prior approval. When petitioner applied for an amended production sharing agreement in 1997,[54] Republic Act No. 7942, or the *Philippine Mining Act of 1995*, was the governing law. Notwithstanding, it must be noted that even petitioner's Application for Production Sharing Agreement had been denied, albeit pending reconsideration.[55]

While the Court understands that petitioner is simply zealous over its alleged right to exploit and undertake mining operations in the Blue Jay Fraction, its failure to prove its ownership over the contested lots means that its action for annulment of title must fail. The Court cannot arrive at a different conclusion, for even petitioner's status as a lessee or a holder of a mineral production sharing agreement is uncertain.

Petitioner insists that it could still not have been possible for public respondents to award free patents to private respondents over a valid and existing mining claim.[56] Yet, not being the owner of the lots in question, the CA found that it is not for petitioner to question public respondents' award of free patents to private respondents. Therefore, the CA concluded that petitioner had no personality to question the validity of private respondent's free patents and certificates of title and that petitioner was essentially instituting a reversion suit. We quote:

---

[53] *Rollo*, p. 87.

[54] *Id.* at 86.

[55] *Id*. at 11, 86.

[56] *Id*. at 10-11.

Supreme Court E-Library

Plaintiff-appellant nevertheless contends that defendants-appellees committed fraud or misrepresentation in securing their free patent and titles over their parcels of land. In questioning the validity of the free patent and the certificates of title of the defendants-appellees however, the plaintiff-appellant is essentially instituting a reversion suit. This, We cannot allow, Section 101 of the Public Land Act clearly states:

x x x x

The primary objective of an action for reversion is the annulment or cancellation of the certificate of title and the resulting reversion of the land covered by the title to the State. In this particular case, even if the defendants-appellees acquired their free patents and titles in bad faith, under the law, only the State can institute such reversion proceedings. Private persons, like the plaintiff-appellant herein, cannot bring an annulment suit or any action which would have the effect of canceling a land patent and the corresponding certificate of title. It has no right or interest over the land considered as public and therefore has no personality to question the validity of the title issued to the private defendants-appellees. Only the Solicitor General or the officer acting in his stead may do so. As title originated from a grant by the government, its cancellation is a matter between the grantor and the grantee.

x x x x

When defendants-appellees acquired their certificate of title issued on the basis of the patent, any subsequent action aimed at questioning the validity of the award of the free patent on the ground of fraud or misrepresentation should be initiated by the State. The State has not done so and hence, We have to uphold the validity and regularity of the free patent and the corresponding original certificate of title based therein.[57]

The Court finds no reversible error in the CA's ruling. Even assuming otherwise, public respondents' issuance of the free patents and certificates of title enjoy a presumption of regularity in the performance of their official duties.[58] This presumption prevails until overcome by no less than clear and convincing evidence to the contrary.[59]

---

[57] *Id.* at 33-34. (Citations omitted)

[58] *Republic v. Hachero, et al.*, 785 Phil. 784, 791 (2016).

[59] *Id*. at 794.

Supreme Court E-Library

Moreover, public respondents vouch[60] that the lots subject of this controversy were all certified to be within alienable and disposable lands. As a background, public respondents narrate that on April 28, 1996, the lots subject of this controversy were covered by a cadastral survey under CAD No. 1062-D. Before the execution of the survey, white print copies of the cadastral maps, together with the corresponding list of lots, were posted in the conspicuous places of the barangay halls of the involved barangays. After passing through plotting, verification, and technical inspection at the Land Management Services, Surveys Division, a certification/notation appeared on the front page of the Cadastral Map that all lots surveyed therein, including the subject lots, are within alienable and disposable lands. On August 8, 1996, private respondents filed their free patent applications over the subject lots. The processing of their applications was made in accordance with the DENR's Manual for Land Disposition, in relation to Commonwealth Act No. 141, otherwise known as the *Public Land Act*. Since private respondents' filing of their applications, up to the actual issuance of the patents in their favor, no one put up any opposition or adverse claim thereto.

Petitioner refutes public respondents by insisting that badges of irregularity surround its award of free patents because the latter turned a blind eye on the installations that petitioner erected.[61] Should public respondents have investigated, it would have been obvious that private respondents lied in their applications as visible mine structures are located thereon.[62] The RTC, however, found that Atok Big Wedge was very much aware of the cadastral survey being conducted in the area which could affect its surface claims.[63] This would have alerted Atok Big Wedge to file its opposition to private respondents' applications.[64] Unfortunately, Atok Big Wedge did nothing to oppose private respondents'

---

60 *Rollo*, pp. 201-202.

61 *Id*. at 255.

62 *Id*.

63 *Id*. at 107-108.

64 *Id*. at 108.

Supreme Court E-Library

applications, which led public respondents to issue the free patents and certificates of title.[65]

Accordingly, the Court upholds the presumption of regularity in public respondents' favor.

Petitioner failed to prove private respondents' fraud in obtaining their free patents

The RTC found nothing fraudulent in the processing and grant of the free patents to private respondents. This was affirmed by the CA, hence:

> At any rate, the trial court also found nothing fraudulent in the processing and grant of the free patent to private defendants-appellees. In its decision, the trial court went over the entire records of the case but found nothing therein to justify and support the plaintiff-appellant's allegation of fraud on the part of all defendants-appellees. Thus:
>
> > The Court found no evidence in the record to establish the allegation that fraud or concealment was committed by anyone of the defendants in connection with the processing and approval of the application for free patents. Notably, the plaintiff just alleged "fraud" and (*sic*) "concealment" in its Complaint without specifying therein what are the fraudulent acts committed and/or how they were committed. To the contrary, as certified to by the Barangay Captains of nine (9) barangays of Itogon, Benguet, including Barangay Gumatdang, they received copies of the cadastral map together with the numerical list of the lots in their respective barangays, and said maps and list were posted in conspicuous places in their barangay. This posting of cadastral maps and lot list in the different barangays disprove the truth of plaintiff (*sic*) allegations x x x that the required notice (*sic*) were not complied with by the defendants and that the private defendants' application and the subsequent issuance of the titles were concealed from other person including, most especially, the plaintiff x x x.

The above findings of fact of the trial court must be accorded respect. It is hornbook doctrine that findings of fact made by a trial court are accorded the highest degree of respect by an appellate tribunal and, absent a clear

---

[65] *Id.*

Supreme Court E-Library

disregard of the evidence before it that can otherwise affect the results of the case, those findings should not be ignored. Besides, the patents and titles issued in the names of the private defendants-appellees are public documents. They were issued by the public defendants-appellees in the exercise of their functions and hence have the presumption of validity. Particularly, as held in several cases, a patent once registered and a certificate of title is thereafter issued, the land covered thereby ceases to be part of public domain. It becomes a private property and the Torrens title issued pursuant to the patent becomes indefeasible upon the expiration of one (1) year from the date of such issuance.[66]

Again, this Court is not a trier of facts.[67] Although Section 1,[68] Rule 45 of the Rules of Civil Procedure is not absolute, none of the recognized exceptions, which allow the Court to review factual issues, is extant from the records of the case.[69] For the foregoing reasons, the Court cannot likewise grant petitioner's alternative prayer to direct public respondents, through the Office of the Solicitor General, to file a case to declare the afore-cited patents and certificates of title void.

To be sure, the Court has no reason to disturb the RTC's findings of fact. It should be accorded deference, as its findings of fact, when affirmed by the Court of Appeals, "are binding and conclusive upon this Court."[70]

---

[66] *Id*. at 34-36. (Citations omitted)

[67] *Gatan, et al. v. Vinarao, et al.*, 820 Phil. 257, 265 (2017).

[68] SECTION 1. *Filing of petition with Supreme Court*. — A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency. *(As amended by A.M. No. 07-7-12-SC, December 12, 2007.)*

[69] *Supra* note 64, at 265-266.

[70] *Id*. at 273.

Supreme Court E-Library

In sum, the party who alleges a fact has the burden of proving it. Section 1,[71] Rule 131 of the Revised Rules on Evidence provides that the burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his or her claim or defense by the amount of evidence required by law. Simply put, petitioner failed to satisfy the requirements for an action for annulment of free patents and certificates of title to prosper. Here, petitioner failed to prove their ownership over the Blue Jay Fraction and private respondents' fraud in obtaining their free patents.

WHEREFORE, premises considered, the petition is **DENIED**. The Decision dated August 14, 2015 and the Resolution dated January 21, 2016 of the Court of Appeals in CA-G.R. CV No. 102865 are **AFFIRMED**. The complaint for annulment of free patent and certificate of title filed by Atok Gold Mining Company, Inc. against Lily G. Felix and Lydia F. Bahingawan is **DISMISSED**.

SO ORDERED.

Leonen (Chairperson), Lazaro-Javier, M. Lopez, and *Kho, Jr., JJ.*, concur.

APPEARANCES OF COUNSEL

Fortun Narvasa & Salazar for petitioners.
Raul Mencio Molintas for private respondents.
Aseria C. Turiao for public respondents.

---

[71] SECTION 1. *Burden of proof and burden of evidence*. — Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his or her claim or defense by the amount of evidence required by law. Burden of proof never shifts.

Burden of evidence is the duty of a party to present evidence sufficient to establish or rebut a fact in issue to establish a *prima facie* case. Burden of evidence may shift from one party to the other in the course of the proceedings, depending on the exigencies of the case.