Supreme Court E-Library

SECOND DIVISION

[G.R. No. L-49835. December 18, 1979]

TWIN PEAKS MINING ASSOCIATION, JOSE SANTIAGO, ROGELIO SANTIAGO, OSCAR S. TIONGCO and BLITHAM WAGAYEN, *petitioners, vs.* **HON. PEDRO C. NAVARRO, Presiding Judge of the Court of First Instance of Rizal, Branch II, and PHILEX MINING CORPORATION,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; COURTS; COURT OF FIRST INSTANCE; JURISDICTION, LACK OF.**— We hold that the trial court has no jurisdiction over the case and that the issue of whether the two contracts are valid falls within the exclusive competence of the Bureau of Mines as clearly indicated in Section 7(c) of Presidential Decree No. 1281 which took effect on January 16, 1978.

2. **CIVIL LAW; PRESIDENTIAL DECREE NO. 1281; POWERS AND FUNCTION OF THE BUREAU OF MINES.**— Under Presidential Decree No. 1281, the Bureau of Mines has "direct charge in the administration and disposition of the mineral lands and mineral resources of the country" (Sec. 3[a]). The decree authorizes the Bureau of Mines to oversee the mining operations of holders and operators of mining claims and to keep records of mining locations, leases, patents, permits and licenses, and all documents and instruments related thereto (Sec. 3[n] and [p]). The Bureau is invested with "jurisdictional supervision and control over all holders of mining claims or applicants for and/or grantees of mining licenses, permits, leases and/or operators thereof, including mining service contracts and service contractors insofar as their mining activities are concerned" (Sec. 6).

APPEARANCES OF COUNSEL

Gozon Elma & Berenguer for petitioners.
Agrava, Velarde, Lucero & Puno for private respondent.

Supreme Court E-Library

DECISION

AQUINO, *J.*:

This *certiorari* and prohibition case is about the jurisdiction of a Court of First Instance to entertain a dispute as to the enforcement of mining contracts, a matter allegedly falling within the exclusive province of the Bureau of Mines under Section 7(c) of Presidential Decree No. 1281.

On September 1, 1978, Philex Mining Corporation filed in the Court of First Instance of Rizal, Pasig Branch II a complaint against the Twin Peaks Mining Association and its four partners. It prayed for a judgment declaring as valid and binding on Twin Peaks the two agreements dated May 22, 1970 and June 25, 1971 for the exploration, operation and exploitation of two hundred ninety lode mineral claims located at Tuba, Benguet. The agreements were entered into between Philex and the late geodetic engineer, Andres K. Espiritu, who represented himself to be the general manager of Twin Peaks but who was not a partner thereof.

The firm and its four partners filed a motion to dismiss on the grounds of lack of jurisdiction and cause of action.

The movants argued that the subject matter of the action was outside the jurisdiction of the lower court because the aforecited Section 7(c) of Presidential Decree No. 1281 provides that the Bureau of Mines has "original and exclusive jurisdiction to hear and decide cases involving" "enforcement of mining contracts due to the refusal of the claimowner x x x to abide by the terms and conditions thereof."

The contention as to lack of cause of action is predicated on the allegations in paragraphs 19 and 21 of the complaint that "Philex submitted to the Bureau of Mines an application for availment of rights and privileges under Presidential Decree No. 463 in respect of the Twin Peaks claims" and that because defendant firm does not recognize the binding force of the said

Supreme Court E-Library

agreements, "the Bureau of Mines has refused to act favorably on the application of Philex for availment of rights and privileges."

The trial court denied the motion to dismiss. It sustained plaintiff's stand that the validity of the said mining contracts is a justiciable question that should be resolved by the courts and that the complaint states a cause of action against the defendants.

After filing a verified answer, wherein Twin Peaks denied having executed the said two agreements, Twin Peaks and its four partners filed the instant special civil actions of *certiorari* and prohibition, assailing the order denying their motion to dismiss. The petition was given due course. Vicente M. Conlu, the officer-in-charge of the legal division of the Bureau of Mines, was asked to appear as *amicus curiae*.

He agreed with petitioners' view that the lower court has no jurisdiction over the case, that it falls within the original and exclusive jurisdiction of the Bureau of Mines and that the dispute in the lower court has become moot and academic because the Assistant Director of Mines in his order of August 16, 1978 rejected the applications of Philex for availment of rights and privileges under Presidential Decree No. 463 with respect to the two hundred forty-two mining claims of the petitioners involved in the aforementioned two mining contracts. The Assistant Director said that the mining claims had lapsed.

The applications were rejected because Espiritu (who signed the contracts) was not the general manager nor a partner of Twin Peaks and because Philex was not able to comply with the Bureau's demand to submit the authority of Espiritu to sign the contracts and the authority to file the availment applications (pp. 83-84, *Rollo*).

In view of the failure of Philex to appeal from that rejection order, the Director of Mines considered it already final and executory (pp. 85-86, *Rollo*).

We hold that the trial court has no jurisdiction over the case and that the issue of whether the two contracts are valid falls

Supreme Court E-Library

within the exclusive competence of the Bureau of Mines as clearly indicated in Section 7(c) of Presidential Decree No. 1281 which took effect on January 16, 1978.

That decree revised Commonwealth Act No. 136 (the law creating the Bureau of Mines) for the purpose of making that agency "a more potent and effective arm of the Government in the administration and disposition of our mineral resources and responsive to the needs of the Filipino people, in general, and the mining industry, in particular."

Another objective of the revision is to clothe the Bureau of Mines "with adequate powers to enable it to vigorously implement Presidential Decree No. 463, otherwise known as the 'Mineral Resources Development Decree of 1974'" and to give it "functions, powers and duties consistent with changing situations and existing conditions."

Under Presidential Decree No. 1281, the Bureau of Mines has "direct charge in the administration and disposition of the mineral lands and mineral resources of the country" (Sec. 3[a]).*

The decree authorizes the Bureau of Mines to oversee the mining operations of holders and operators of mining claims and to keep records of mining locations, leases, patents, permits and licenses, and all documents and instruments related thereto (Sec. 3[n] and [p]).

The Bureau is invested with "jurisdictional supervision and control over all holders of mining claims or applicants for and/or grantees of mining licenses, permits, leases and/or operators thereof, including mining service contracts and service contractors insofar as their mining activities are concerned" (Sec. 6).

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* See Presidential Decree No. 99-A, 69 O.G. 2668-23, which took effect on January 15, 1973, as to the power of the Director of Mines to issue an order for the original locator's right to possess and exploit a mining claim notwithstanding the pendency in the court of a case involving conflicting or overlapping mining claims.

Supreme Court E-Library

Section 7 of the same decree, already cited, confers upon the Bureau the following quasi-judicial powers:

"SEC. 7. In addition to its regulatory and adjudicative functions over companies, partnerships or persons engaged in mining exploration, development and exploitation, the Bureau of Mines shall have original and exclusive jurisdiction to hear and decide cases involving:

"(a) a mining property subject of different agreements entered into by the claim holder thereof with several mining operators;

"(b) complaints from claimowners that the mining property subject of an operating agreement has not been placed into actual operations within the period stipulated therein; and

"(c) cancellation and/or enforcement of mining contracts due to the refusal of the claimowner/operator to abide by the terms and conditions thereof;

"All actions and decisions of the Director of Mines on the above cases are subject to review, *motu proprio* or upon appeal by any person aggrieved thereby, by the Secretary of Natural Resources whose decision shall be final and executory after the lapse of thirty (30) days from receipt by the aggrieved party of said decision, unless appealed to the President in accordance with the applicable provisions of Presidential Decree No. 309 and Letter of Instructions Nos. 119 and 135."**

In the instant case, it is apparent that Philex wants a judicial declaration as to the validity of the said agreements in order that it would be able to enforce the same against Twin Peaks notwithstanding the death of Espiritu who had signed the agreements in behalf of Twin Peaks but who, according to the latter, was not authorized to do so.

** Presidential Decree No. 309, which took effect on October 10, 1973, and Letters of Instructions Nos. 119 and 135, dated August 25 and October 11, 1973, respectively, provide for the creation of a panel of Investigators in the Bureau of Mines and in the Department of Agriculture and Natural Resources (now Ministry of Natural Resources) for the adjudication of conflicts regarding mining claims.

Supreme Court E-Library

Thus, in a letter dated May 19, 1978, counsel for Twin Peaks advised Philex that Espiritu "was not the general manager of Twin Peaks" and was never authorized by the partnership to sign the contract dated May 22, 1970.

We have already stated that the Assistant Director of Mines in his order of August 16, 1978 rejected the applications of Philex for availment of rights with respect to the mining claims in question of Twin Peaks.

Instead of directly litigating in the Bureau of Mines the enforceability of its mining contracts with Twin Peaks (assuming that that remedy is still available), Philex filed a complaint for declaratory relief and damages against Twin Peaks. The form of that action cannot camouflage the fact that the ultimate objective of Philex is to enforce the said contracts.

It should be underscored that Philex's initial attempt to attain that objective failed when the Assistant Director of Mines rejected its applications for availment of rights with respect to the said claims under Presidential Decree No. 463. That application of Philex is an implied admission that the Bureau of Mines is the proper agency vested with adjudicatory jurisdiction for the enforcement of the disputed mining contracts.

And it is noteworthy that the trend is to make the adjudication of mining cases a purely administrative matter. Thus, it cannot escape notice that under Section 61 of the Mining Law, Commonwealth Act No. 137, as amended by Republic Acts Nos. 746 and 4388, appeals from the decision of the Secretary of Agriculture and Natural Resources (now Minister of Natural Resources) on conflicts and disputes arising out of mining locations may be made to the Court of Appeals or the Supreme Court, as the case may be.

In contrast, under the decrees issued since the onset of martial law, it is *expressly provided* that the decisions of the same Secretary (now Minister) in mining cases are now appealable to *the President of the Philippines* under Section 50 of the Mineral Resources Development Decree of 1974 and Section 7 of Presidential Decree No. 1281 in relation to Presidential Decree No. 309.

Supreme Court E-Library

WHEREFORE, the writ of prohibition is granted and the lower court's order denying the motion to dismiss is reversed and set aside. It is directed to dismiss the complaint in Civil Case No. 30672 for lack of jurisdiction. No costs.

SO ORDERED.

Barredo, Antonio, Santos, and *Abad Santos, JJ.*, concur.

Concepcion Jr., J., took no part.

FIRST DIVISION

[G.R. No. 50092. December 18, 1979]

RAMON A. GONZALES, *petitioner, vs.* **NATIONAL HOUSING CORPORATION, BENJAMIN DEL ROSARIO, GREGORIO S. LICAROS, ROBERTO S. BENEDICTO, GILBERTO TEODORO, ESTEBAN BERNIDO, SOCIAL SECURITY SYSTEM, GOVERNMENT SERVICE INSURANCE SYSTEM, PHILIPPINE NATIONAL BANK, DEVELOPMENT BANK OF THE PHILIPPINES and ROBERT HILDEBRAND MASCHINEHANDEL, GMDH,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEAL; QUESTION OF FACT; QUESTIONS ON MALICE IN FILING A CASE AND REASONABLENESS OF ATTORNEY'S FEES ARE QUESTIONS OF FACT.— The question of whether or not there was fraudulent or deceitful intent or malice in the institution of the case so as to entitle respondents to damages, is a question of fact. The reasonableness of attorney's fees is likewise a question of fact.