

THIRD DIVISION

[G.R. No. 200474, November 09, 2020]

**MAXIMO AWAYAN, PETITIONER, VS. SULU RESOURCES
DEVELOPMENT CORPORATION, RESPONDENT.**

DECISION

LEONEN, J.:

The Secretary of the Department of Environment and Natural Resources has the authority to cancel a mineral production sharing agreement upon showing that the licensee failed to comply with the terms of such agreement. This authority is not contingent on a prior recommendation from the Mines and Geosciences Bureau Director.

This Court resolves a Petition for Review on Certiorari^[1] assailing the Decision^[2] and Resolution^[3] of the Court of Appeals, which reversed the Office of the President and the Department of Environment and Natural Resources Secretary's (Environment Secretary) cancellation of the Mineral Production Sharing Agreement (Agreement) with Sulu Resources Development Corporation (Sulu Resources).

On April 7, 1998, the Republic of the Philippines entered into an Agreement with Sulu Resources,^[4] a mining company, for the "development and utilization for commercial purposes of certain gold, precious and base metals and rock aggregate materials and other minerals."^[5] This Agreement covered a 775.1659-hectare area in Barangay Cupang, Antipolo, Rizal, for a period of 25 years renewable for another 25 years.^[6]

As required by the Agreement, Sulu Resources submitted quarterly reports for July to December 1998, January to September 1999, October to December 1999, January to March 2000, and April to June 2000, as well as the annual accomplishment report for July 1999 to June 2000. However, on April 16, 2002 and August 2, 2002, Sulu Resources said that it could no longer submit the required reports, as well as the Declaration of Mining Project Feasibility, due to *force majeure*. This prompted the Mines and Geosciences Bureau Assistant Director to order a field investigation to verify Sulu Resources' claims.^[7]

Per its field investigation on October 15, 2002,^[8] the Mines and Geosciences Bureau found that Sulu Resources was prevented from entering the contract area due to a roadblock and checkpoint manned by a well-armed security force under the order of a certain Armando Carpio (Carpio). Sulu Resources tried to negotiate for the road right-of-way, to no avail. Allegedly, Carpio demanded an exorbitant rate for right-of-way, and the ownership over the area was still being contested before the courts.^[9]

The field investigation team concluded that Sulu Resources' failure to submit the

mandatory reports was justified by *force majeure* under Section 3(s) of Republic Act No. 7942, or the Philippine Mining Act of 1995.^[10] It recommended that the dispute with the surface owners be submitted to the Panel of Arbitrators to determine the reasonable compensation rate and right-of-way charges, as well as the amount due be deposited in an escrow account pending resolution of the cases.^[11]

In 2003, then Environment Secretary Elisea Gozun (Secretary Gozun) issued an Order affirming that Sulu Resources "has not violated any terms and conditions of the [Agreement] and has performed the obligations thereunder."^[12] Succeeding Environment Secretary Michael T. Defensor (Secretary Defensor) later issued another Order in 2005, stating that the Agreement was not among the agreements canceled for non-performance and violation of Republic Act No. 7942.^[13]

In September 2006, technical personnel of the Mines and Geosciences Bureau reported based on an annual field validation that Sulu Resources failed to submit the reports due to *force majeure*. It cited Sulu Resources' subsisting dispute with the surface owners.^[14]

On March 18, 2008, Sulu Resources submitted a report on "geological confirmation data gathering activities" in preparation for feasibility studies.^[15] In 2009, Sulu Resources submitted its Quarterly Report for 2008 on the following activities:

- a. Completed geophysical survey (geo-resistivity seismic) in area of approximately 130 hectares
- b. Completed one (1) confirmatory drill hole with a total depth of 55 meters
- c. Demobilization of drill equipment and materials from ... site to a new site
- d. Coordinated with landowners and local officials.^[16]

Subsequently, Sulu Resources was also issued an Environmental Compliance Certificate.^[17]

On February 16, 2009, Maximo Awayan (Awayan), who owned part of the contract area, filed before the Department of Environment and Natural Resources a Petition seeking to cancel the Agreement with Sulu Resources.^[18] He alleged the following:

- 1) Since the grant of the MPSA in 1998, the contract area has been non-operational and inactive;
- 2) The inclusion of his private property as part of the contract area without his consent and the non-performance of work thereon has deprived him of the right to benefit from the said private property;
- 3) The contractual obligations of [Sulu Resources] under the MPSA such as to perform all mining operations and submit the

required reports, among others, were not complied with;

- 4) [Sulu Resources] failed to comply with the required filing of a declaration of Mining Project Feasibility, thereby hindering the development of the area and contravening its representation and warranty that it has the financial and technical capabilities to carry out the objectives of MPSA No. 108-98A-IV;
- 5) [Sulu Resources] has over-extended the Exploration Period of the MPSA, to the prejudice of the Government and to his disadvantage as surface owner; and
- 6) [Sulu Resources] does not meet the minimum requirement of Php2,500,000.00 as paid-up, hence, it is not a "Qualified Person."^[19]

On September 19, 2009, Environment Secretary Jose L. Atienza, Jr. (Secretary Atienza) granted Awayan's petition and ordered the cancellation of the Agreement with Sulu Resources,^[20] thus:

WHEREAS, the verification by this Department confirms that Sulu has committed the following violations of the terms and conditions of MPSA No. 108-98A-IV:

1. Sulu [Resources] has not filed an application for renewal of the Exploration Period of MPSA No. 108-98A-IV since its initial 2-year term that expired in year 2000, in violation of Section 5.1 thereof;
2. Sulu [Resources] has not submitted a Declaration of Mining Project Feasibility during the term of the Exploration Period from 1998 to 2000, in violation of the provisions of Section 5.5 thereof;
3. Sulu [Resources] has not submitted the required reports in violation of Section 5.6 thereof, which requires the submission of quarterly and annual reports and the final and relinquishment reports, among others;

WHEREAS, such violations are grounds for cancellation of MPSA No. 108-98A-IV, pursuant to the provisions of Section 96 of the Mining Act and Section 15.2 of the MPSA;

WHEREAS, it is the pronounced policy of this Department to accelerate the development of mineral resources of the country and in so doing, cleanse its records of non-performing mining tenements in line with the ongoing program of revitalizing the minerals industry;

WHEREFORE, the foregoing premises considered, the Mineral Production Sharing Agreement No. 108-98A-IV granted to Sulu Resources

Development Corporation is hereby **cancelled**.^[21] (Emphasis in the original)

Sulu Resources moved for reconsideration, but this was denied by Secretary Atienza, who likewise declared the area open to mining application.^[22]

Sulu Resources appealed before the Office of the President, contending that: (1) it was prevented and excused by *force majeure* from strictly complying with its obligations; (2) it substantially complied in good faith with its obligations; and (3) Secretary Atienza erred in ruling that canceling the Agreement would achieve State policies on mining and serve the public interest.^[23]

In a March 5, 2010 Decision,^[24] the Office of the President affirmed the Orders of the Department of Environment and Natural Resources. It ruled that the deficiencies invoked by Sulu Resources were all due in 2000, and that the problem's persistence militated against Sulu Resources' claim. It also emphasized that the findings of administrative agencies are generally accorded great respect.^[25] The dispositive portion of the Office of the President's Decision reads:

After a careful and thorough evaluation and study of the records of this case, this Office finds the Orders of the DENR to be in accord with facts, law and jurisprudence relevant to the case.

WHEREFORE, premises considered, the assailed Orders of the DENR dated September 18, 2009 and November 20, 2009 are hereby **AFFIRMED** in toto.^[26] (Emphasis in the original)

Sulu Resources moved for reconsideration, but this was denied.^[27] Hence, it filed a Petition for Review before the Court of Appeals.

In its August 16, 2011 Decision,^[28] the Court of Appeals granted Sulu Resources' Petition and ruled that Secretary Atienza's cancellation order was tainted with grave abuse of discretion in disregarding due process, considering that several officers of the Department of Environment and Natural Resources repeatedly recognized that *force majeure* justified the partial noncompliance of Sulu Resources.^[29]

In ruling that Sulu Resources was justified in not strictly complying with its obligations, the Court of Appeals disposed of the case as follows:

IN LIGHT OF ALL THE FOREGOING, the instant petition is **GRANTED**. The assailed Decision dated March 5, 2010 and the resolution dated May 28, 2010, respectively issued by the Office of the President which affirmed the cancellation of MPSA No. 108-98A-IV are hereby **ANNULLED**. Accordingly, the Orders dated September 18, 2009 and November 20, 2009 issued by DENR Secretary Lito Atienza are

REVERSED AND SET ASIDE. The Mineral Production Sharing Agreement No. 108-98A-IV, granted in favor of petitioner, Sulu Resources Development Corporation, now known as Holcim Aggregates Corporation, is declared to be in full force and effect.

SO ORDERED.^[30] (Emphasis in the original)

The Court of Appeals held that the Mines and Geosciences Bureau's recommendation is required in canceling mining agreements, pursuant to Section 7(e) of Administrative Order No. 96-42, or the Implementing Rules and Regulations of Republic Act No. 7942,^[31] which states:

SECTION 7. Organization and Authorization of the Bureau.

....

The Bureau shall have the following authority, among others:

....

e. To cancel or to recommend cancellation after due process, mining rights, mining applications and mining claims for non-compliance with pertinent laws, rules and regulations[.]^[32]

Because Secretary Atienza canceled the Agreement without the Mines and Geosciences Bureau Director's recommendation, the Court of Appeals declared the cancellation void.^[33]

Awayan moved for reconsideration, but this was denied.^[34]

Thus, on March 9, 2012, Awayan filed this Petition for Review on Certiorari.^[35] On June 26, 2012, Sulu Resources filed its Comment, to which petitioner filed his Reply^[36] on May 21, 2013.

In a November 9, 2016 Resolution, this Court resolved to give due course to the Petition and required the parties to submit their respective memoranda.^[37]

Sulu Resources filed its Memorandum on January 10, 2017,^[38] while Awayan filed his on January 26, 2017.^[39]

Before this Court, petitioner asserts that he has legal standing to file the Petition. He argues that he is a real party in interest because as a surface owner, he stands to be injured by the Agreement and has the right to protect the full enjoyment of his ownership over the property. He adds that since the Agreement is imbued with public interest, this case demands a proper review by this Court.^[40]