

EN BANC

[G.R. No. 175368, April 11, 2013]

**LEAGUE OF PROVINCES OF THE PHILIPPINES, PETITIONER, VS.
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND
HON. ANGELO T. REYES, IN HIS CAPACITY AS SECRETARY OF
DENR, RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

This is a petition for *certiorari*, prohibition and mandamus,^[1] praying that this Court order the following: (1) declare as unconstitutional Section 17(b)(3)(iii) of Republic Act (R.A.) No. 7160, otherwise known as *The Local Government Code of 1991* and Section 24 of Republic Act (R.A.) No. 7076, otherwise known as the *People's Small-Scale Mining Act of 1991*; (2) prohibit and bar respondents from exercising control over provinces; and (3) declare as illegal the respondent Secretary of the Department of Energy and Natural Resources' (DENR) nullification, voiding and cancellation of the Small-Scale Mining permits issued by the Provincial Governor of Bulacan.

The facts are as follows:

On March 28, 1996, Golden Falcon Mineral Exploration Corporation (Golden Falcon) filed with the DENR Mines and Geosciences Bureau Regional Office No. III (MGB R-III) an Application for Financial and Technical Assistance Agreement (FTAA) covering an area of 61,136 hectares situated in the Municipalities of San Miguel, San Ildefonso, Norzagaray and San Jose del Monte, Bulacan.^[2]

On April 29, 1998, the MGB R-III issued an Order denying Golden Falcon's Application for Financial and Technical Assistance Agreement for failure to secure area clearances from the Forest Management Sector and Lands Management Sector of the DENR Regional Office No. III.^[3]

On November 11, 1998, Golden Falcon filed an appeal with the DENR Mines and Geosciences Bureau Central Office (MGB-Central Office), and sought reconsideration of the Order dated April 29, 1998.^[4]

On February 10, 2004, while Golden Falcon's appeal was pending, Eduardo D. Mercado, Benedicto S. Cruz, Gerardo R. Cruz and Liberato Sembrano filed with the Provincial Environment and Natural Resources Office (PENRO) of Bulacan their respective Applications for Quarry Permit (AQP), which covered the same area subject of Golden Falcon's Application for Financial and Technical Assistance Agreement.^[5]

On July 16, 2004, the MGB-Central Office issued an Order denying Golden Falcon's appeal and affirming the MGB R-III's Order dated April 29, 1998.

On September 13, 2004, Atlantic Mines and Trading Corporation (AMTC) filed with the PENRO of Bulacan an Application for Exploration Permit (AEP) covering 5,281 hectares of the area covered by Golden Falcon's Application for Financial and Technical Assistance Agreement.^[6]

On October 19, 2004, DENR-MGB Director Horacio C. Ramos, in response to MGB R-III Director Arnulfo V. Cabantog's memorandum query dated September 8, 2004, categorically stated that the MGB-Central Office's Order dated July 16, 2004 became final on August 11, 2004, fifteen (15) days after Golden Falcon received the said Order, per the Certification dated October 8, 2004 issued by the Postmaster II of the Philippine Postal Corporation of Cainta, Rizal.^[7]

Through letters dated May 5 and May 10, 2005, AMTC notified the PENRO of Bulacan and the MGB R-III Director, respectively, that the subject Applications for Quarry Permit fell within its (AMTC's) existing valid and prior Application for Exploration Permit, and the the former area of Golden Falcon was open to mining location only on August 11, 2004 per the Memorandum dated October 19, 2004 of the MGB Director, Central Office.^[8]

On June 24, 2005, Ricardo Medina, Jr., PENRO of Bulacan, indorsed AMTC's letter to the Provincial Legal Officer, Atty. Eugenio F. Resurreccion, for his legal opinion on which date of denial of Golden Falcon's application/appeal – April 29, 1998 or July 16, 2004 - is to be considered in the deliberation of the Provincial Mining Regulatory Board (PMRB) for the purpose of determining when the land subject of the Applications for Quarry Permit could be considered open for application.

On June 28, 2005, Provincial Legal Officer Eugenio Resurreccion issued a legal opinion stating that the Order dated July 16, 2004 of the MGB-Central Office was a mere reaffirmation of the Order dated April 29, 1998 of the MGB R-III; hence, the Order dated April 29, 1998 should be the reckoning period of the denial of the application of Golden Falcon.

On July 22, 2005, AMTC filed with the PMRB of Bulacan a formal protest against the aforesaid Applications for Quarry Permit on the ground that the subject area was already covered by its Application for Exploration Permit.^[9]

On August 8, 2005, MGB R-III Director Cabantog, who was the concurrent Chairman of the PMRB, endorsed to the Provincial Governor of Bulacan, Governor Josefina M. dela Cruz, the aforesaid Applications for Quarry Permit that had apparently been converted to Applications for Small-Scale Mining Permit of Eduardo D. Mercado, Benedicto S. Cruz, Gerardo R. Cruz and Lucila S. Valdez (formerly Liberato Sembrano).^[10]

On August 9, 2005, the PENRO of Bulacan issued four memoranda recommending to Governor Dela Cruz the approval of the aforesaid Applications for Small-Scale Mining Permit.^[11]

On August 10, 2005, Governor Dela Cruz issued the corresponding Small-Scale

Mining Permits in favor of Eduardo D. Mercado, Benedicto S. Cruz, Gerardo R. Cruz and Lucila S. Valdez.^[12]

Subsequently, AMTC appealed to respondent DENR Secretary the grant of the aforesaid Small-Scale Mining Permits, arguing that: (1) The PMRB of Bulacan erred in giving due course to the Applications for Small-Scale Mining Permit without first resolving its formal protest; (2) The areas covered by the Small-Scale Mining Permits fall within the area covered by AMTC's valid prior Application for Exploration Permit; (3) The Applications for Quarry Permit were illegally converted to Applications for Small-Scale Mining Permit; (4) DENR-MGB Director Horacio C. Ramos' ruling that the subject areas became open for mining location only on August 11, 2004 was controlling; (5) The Small-Scale Mining Permits were null and void because they covered areas that were never declared People's Small-Scale Mining Program sites as mandated by Section 4 of the People's Small-Scale Mining Act of 1991; and (6) Iron ore is not considered as one of the quarry resources, as defined by Section 43 of the Philippine Mining Act of 1995, which could be subjects of an Application for Quarry Permit.^[13]

On August 8, 2006, respondent DENR Secretary rendered a Decision^[14] in favor of AMTC. The DENR Secretary agreed with MGB Director Horacio C. Ramos that the area was open to mining location only on August 11, 2004, fifteen (15) days after the receipt by Golden Falcon on July 27, 2004 of a copy of the MGB-Central Office's Order dated July 16, 2004, which Order denied Golden Falcon's appeal. According to the DENR Secretary, the filing by Golden Falcon of the letter-appeal suspended the finality of the Order of denial issued on April 29, 1998 by the Regional Director until the resolution of the appeal on July 16, 2004 by the MGB-Central Office. He stated that the Applications for Quarry Permit were filed on February 10, 2004 when the area was still closed to mining location; hence, the Small-Scale Mining Permits granted by the PMRB and the Governor were null and void. On the other hand, the DENR Secretary declared that AMTC filed its Application for Exploration Permit when the area was already open to other mining applicants; thus, AMTC's Application for Exploration Permit was valid. Moreover, the DENR Secretary held that the questioned Small-Scale Mining Permits were issued in violation of Section 4 of R.A. No. 7076 and beyond the authority of the Provincial Governor pursuant to Section 43 of R.A. No. 7942, because the area was never proclaimed to be under the People's Small-Scale Mining Program. Further, the DENR Secretary stated that iron ore mineral is not considered among the quarry resources.

The dispositive portion of the DENR Secretary's Decision reads:

WHEREFORE, the Application for Exploration Permit, AEP-III-02-04 of Atlantic Mines and Trading Corp. is declared valid and may now be given due course. The Small-Scale Mining Permits, SSMP-B-002-05 of Gerardo Cruz, SSMP-B-003-05 of Eduardo D. Mercado, SSMP-B-004-05 of Benedicto S. Cruz and SSMP-B-005-05 of Lucila S. Valdez are declared **NULL AND VOID**. Consequently, the said permits are hereby **CANCELLED**.^[15]

Hence, petitioner League of Provinces filed this petition.

Petitioner is a duly organized league of local governments incorporated under R.A. No. 7160. Petitioner declares that it is composed of 81 provincial governments, including the Province of Bulacan. It states that this is not an action of one province alone, but the collective action of all provinces through the League, as a favorable ruling will not only benefit one province, but all provinces and all local governments.

Petitioner raises these issues:

I

WHETHER OR NOT SECTION 17(B)(3)(III) OF THE, 1991 LOCAL GOVERNMENT CODE AND SECTION 24 OF THE PEOPLE'S SMALL-SCALE MINING ACT OF 1991 ARE UNCONSTITUTIONAL FOR PROVIDING FOR EXECUTIVE CONTROL AND INFRINGING UPON THE LOCAL AUTONOMY OF PROVINCES.

II

WHETHER OR NOT THE ACT OF RESPONDENT [DENR] IN NULLIFYING, VOIDING AND CANCELLING THE SMALL-SCALE MINING PERMITS AMOUNTS TO EXECUTIVE CONTROL, NOT MERELY SUPERVISION AND USURPS THE DEVOLVED POWERS OF ALL PROVINCES.^[16]

To start, the Court finds that petitioner has legal standing to file this petition because it is tasked under Section 504 of the Local Government Code of 1991 to promote local autonomy at the provincial level;^[17] adopt measures for the promotion of the welfare of all provinces and its officials and employees;^[18] and exercise such other powers and perform such other duties and functions as the league may prescribe for the welfare of the provinces.^[19]

Before this Court determines the validity of an act of a co-equal and coordinate branch of the Government, it bears emphasis that ingrained in our jurisprudence is the time-honored principle that a statute is presumed to be valid.^[20] This presumption is rooted in the doctrine of separation of powers which enjoins upon the three coordinate departments of the Government a becoming courtesy for each other's acts.^[21] This Court, however, may declare a law, or portions thereof, unconstitutional where a petitioner has shown a clear and unequivocal breach of the Constitution,^[22] leaving no doubt or hesitation in the mind of the Court.^[23]

In this case, petitioner admits that respondent DENR Secretary had the authority to nullify the Small-Scale Mining Permits issued by the Provincial Governor of Bulacan, as the DENR Secretary has control over the PMRB, and the implementation of the Small-Scale Mining Program is subject to control by respondent DENR.

Control of the DENR/DENR Secretary over small-scale mining in the provinces is granted by three statutes: (1) R.A. No. 7061 or *The Local Government Code of 1991*; (2) R.A. No. 7076 or the *People's Small Scale Mining Act of 1991*; and (3) R.A. No. 7942, otherwise known as the *Philippine Mining Act of 1995*.^[24] The pertinent provisions of law sought to be declared as unconstitutional by petitioner

are as follows:

R.A. No. 7061 (The Local Government Code of 1991)

SEC. 17. Basic Services and Facilities. - (a) Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. **Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provision of the basic services and facilities enumerated herein.**

(b) Such basic services and facilities include, but are not limited to, the following:

x x x x

(3) For a Province:

x x x x

(iii) Pursuant to national policies and subject to supervision, control and review of the DENR, enforcement of forestry laws limited to community-based forestry projects, pollution control law, small-scale mining law, and other laws on the protection of the environment; and mini-hydro electric projects for local purposes; x x x^[25]

R.A. No. 7076 (People's Small-Scale Mining Act of 1991)

Sec. 24. Provincial/City Mining Regulatory Board. - There is hereby created **under the direct supervision and control of the Secretary** a provincial/city mining regulatory board, herein called the Board, which shall be the implementing agency of the Department, and shall exercise the following powers and functions, **subject to review by the Secretary:**

- (a) Declare and segregate existing gold-rush areas for small-scale mining;
- (b) Reserve future gold and other mining areas for small-scale mining;
- (c) Award contracts to small-scale miners;
- (d) Formulate and implement rules and regulations related to small-scale mining;
- (e) Settle disputes, conflicts or litigations over conflicting claims within a people's small-scale mining area, an area that is declared a small-mining; and
- (f) Perform such other functions as may be necessary to achieve the goals and objectives of this Act.^[26]