

EN BANC

[G.R. No. 111157, March 19, 1997]

ITOGON-SUYOC MINES, INC., PETITIONER, VS. THE OFFICE OF THE PRESIDENT, SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, DIRECTOR OF MINES AND GEOSCIENCES BUREAU, JAMES BRETT, EDGAR KAPAWEN, LILY CAMARA AND JAIME PAUL B. PANGANIBAN, RESPONDENTS.

DECISION

PADILLA, J.:

Itogon-Suyoc Mines, Inc. (ISMI) has filed this petition for certiorari under Rule 65 of the Rules of Court seeking to annul and set aside the decision dated 12 January 1993 and resolution dated 15 June 1993 of respondent Office of the President (OP) in O.P. Case No. 1657. In the assailed decision, the OP dismissed petitioner's appeal and affirmed the order of the Minister of Natural Resources (now Secretary of the Department of Environment and Natural Resources) dated 15 July 1986. Petitioner's motion for reconsideration was denied in the aforesaid assailed resolution of the OP.

This case arose from the separate protests lodged by petitioner ISMI with the Bureau of Mines and Geosciences (the Bureau) against private respondents James Brett, Edgar Kapawen and Lily Camara. The Bureau docketed the protests against Brett as Mines Administrative Case (MAC) Nos. V-960 and V-973; against Kapawen as MAC No. V-974, and against Camara as MAC No. V-975. Jaime Paul V. Panganiban entered as intervenor in the protests.

In its protests, ISMI alleged that its mining claims, namely, "DAGAS FR.", "NANCY FR.", "NOGAT FR.", "CALIDAD FR.", "GUSADAN FR.", "ELI FR.", "COLOCOL FR.", "TANGADAN FR.", "INDEPEDENCE FR.", "TODAYAN FR.", "GUBAC FR.", "EXCHANGE FR.", "SACUDAN FR.", "NEBRASKA FR.", "NEW JERSEY FR." and "LIFE FR." are overlapped by the mining claim of Brett known as "KEDSER I"; that its mining claims "COLORADO", "RHINDEZA", "IDAMO", "PEPE", "SACUDAN", "NORTE", "COLOCOL", "MINNESOTA", "BUTTE", "RUSSEL" and "TANGADAN" are overlapped by the mining claim of Brett called "KEDSER II"; that its mining claims "LISTO", "MONKEY", "SHARP-SHOOTER", "MILLSITE", "LAURA", "ALEJANDRA", "EXCHANGE", "JUDGE" and "PEG" are overlapped by the mining claim of Kapawen called "EDGAR II"; that its mining claims "DURAY", "NENA", "PALIDAN", "PAL", "AL", "GUANZO", "REDGE", "LEBENG", "LIMIT", "DAGAS", "NANCY" and "WASAWAS" are overlapped by the mining claim of Camara called "FBJ", and that of the intervenor Panganiban called "JAIME I" and "JAIME II". All of these apparently conflicting mining claims are located at Suyoc, Mankayan, Benguet.

Petitioner ISMI alleged in its protests with the Bureau that the mining claims of private respondents Brett and Kapawen are null and void for having overlapped petitioner's valid and existing mining claims and that intervenor Panganiban's

mining claims are unregistered, hence, he has allegedly no legal rights and interests over the disputed area.

On 17 February 1984, the Bureau rendered a decision, the dispositive part of which reads as follows:

"WHEREFORE, in the light of the foregoing, protestee Brett and Kapawen and intervenor Panganiban are hereby given the exclusive and preferential right to occupy, develop, operate, exploit and lease the areas covered by their mining claims 'KEDSER I', 'KEDSER II', 'EDGAR II' and 'JAIME I', respectively, and that protestant ITOGON is hereby given the preferential right to occupy, develop, operate, exploit and lease the area covered by its mining claims 'DURAY', 'NENA', 'PALIDAN' 'PAL', 'AL', 'GUANZO', 'REDGE' and 'LEBENG'." [1]

Petitioner ISMI appealed the decision of the Bureau to the then Ministry of Natural Resources (MNR) which consolidated MAC Nos. V-960, V-973, V-974 and V-975 as MNR Case No. 5254. Initially, the MNR dismissed petitioner's appeal for its failure to seasonably submit its appeal memorandum. The MNR also stated in the order dismissing petitioner's appeal that it "found the decision appealed from to be strictly based on a correct appreciation of the facts and application of the pertinent law. In fact, it was to be (sic) so exhaustive and comprehensive as to preclude doubt that any error can be traceable in its promulgation." [2]

Petitioner ISMI moved for reconsideration of the aforesaid order of the MNR. On 13 February 1986, the MNR rendered a decision overturning its earlier order, thus:

"WHEREFORE, the Order dated 12 July 1984 of this Office should be, as hereby it is MODIFIED in that the 'KEDSER I' and 'KEDSER II', 'EDGAR', 'JAIME I', 'JAIME II' mining claims of appellees James Brett, Edgar Kapawen and Jaime Paul B. Panganiban are hereby declared null and void ab initio for having overlapped the valid and subsisting mining claims of appellant Itogon-Suyoc Mines, Inc. Appellant ISMI is hereby granted the exclusive and preferential right to occupy, develop, operate, exploit and lease the area covered by its mining claims overlapped by appellees." [3]

Private respondent Brett then moved to reconsider the MNR decision reversing its earlier order. On 15 June 1986, the MNR issued another order which states that:

"WHEREFORE, this Office resolves to reconsider and set aside its Decision dated February 13, 1986, thereby reinstating its original Order dated July 12, 1984.

So Ordered. [4]

Petitioner ISMI filed a motion for reconsideration of the latest order but the MNR denied the same in an Order dated 7 October 1986 which states, in part, that:

"x x x Itogon's appeal was dismissed because (1) it filed its appeal memorandum with this Office only after the lapse of three (3) months and seven (7) days from its receipt of the decision appealed from which is far beyond the five-day reglementary period specially prescribed by

law in mining case. The law mandates speedy proceedings in mining cases, which are specially impressed with public interest. 'Perfection of appeals within the reglementary period is not only mandatory but jurisdictional x x x' (Miranda vs. Guanzon, No. L-4992, October 27, 1952) and the rule is more exacting in mining cases where the five-day reglementary period for appeal (instead of 30 days as prescribed in other cases) is statutorily prescribed and is not ordinarily extendible and (2) with respect to the merits of the case, this Office found the decision appealed from to be strictly based on correct appreciation of the facts and application of the pertinent laws involved."^[5]

Petitioner received a copy of the aforesaid order of denial on 7 November 1986.

On 10 November 1986, petitioner ISMI filed its notice of appeal with public respondent OP. Thereafter, or on 24 December 1986, petitioner submitted its appeal memorandum. Private respondent Brett then filed his reply memorandum and petitioner filed its rejoinder thereto.

On 12 January 1993, the OP rendered a decision which affirmed the order of the MNR reinstating its original order dismissing petitioner's appeal.^[6] In effect, the decision of the OP sustained the Bureau's decision upholding the mining claims of Brett, Kapawen and Panganiban, namely, "KEDSER I and II", "EDGAR II" and "JAIME I", respectively, as against the mining claims of petitioner over the same location and upholding only the mining claims of petitioner known as "DURAY", "NENA", "PALIDAN", "PAL", "GUANZO", "REDGE" and "LEBENG."

In dismissing petitioner's appeal, the OP essentially relied upon the findings of the Bureau that, inter alia, the subject mining claims of petitioner are null and void since they have no valid tie points in violation of Section 28 of the Philippine Bill of 1902; petitioner failed to show any valid deed of assignment or transfer of its said mining claims from their original locators; and there was no valid reconstitution of petitioner's declarations of location.

Petitioner ISMI received a copy of the aforesaid OP decision on 24 March 1993 and filed, by registered mail, its motion for reconsideration thereof on 7 April 1993. On 15 June 1993, the OP issued its assailed resolution denying petitioner's motion for reconsideration on grounds that the arguments raised therein by petitioner have been previously considered and passed upon by the OP and that the motion was filed late.^[7]

In this petition for certiorari, petitioner ISMI submits that the OP acted with grave abuse of discretion amounting to lack of jurisdiction when it ruled that:

- "1. ISMI's motion for reconsideration of the decision of the OP dated 12 January 1993 was filed out of time;
2. Under Section 28 of the Philippine Bill of 1902, tie points are necessary for the validity of mining locations;
3. The mining claims of ISMI have not been validly assigned or transferred by their original locators to ISMI;

4. ISMI's declarations of location have not been validly reconstituted; and

5. ISMI's appeal from the 17 February 1984 decision of the Bureau to the MNR was not perfected on time."^[8]

At the outset, it must be stated that the applicable law governing procedures in cases involving mining claims is Presidential Decree No. 309 entitled "Establishing Rules and Procedure for the Speedy Disposition or Settlement of Conflicting Mining Claims." Section 5 thereof provides in part that — "[f]rom the decision of the Secretary an appeal may be taken within five (5) days to the President whose decision shall be final and executory."

Clearly, therefore, further appeal from or review of the decision of the OP is not available to petitioner ISMI. To succeed, petitioner must show that the OP committed grave abuse of discretion, or acted without or in excess of its jurisdiction, in rendering the decision dated 12 January 1993 and the resolution dated 15 June 1993.^[9]

Petitioner ISMI imputes, however, grave abuse of discretion on the part of the OP when it denied in its resolution dated 15 June 1993 petitioner's motion for reconsideration for, among other reasons, having been filed beyond the reglementary period. Petitioner contends that it filed the same by registered mail on 7 April 1993 or fourteen (14) days from receipt of the decision on 24 March 1993, thus, allegedly well within the fifteen (15) days, the reglementary period provided by Administrative Order No. 18. Section 7 thereof provides that:

"Sec. 7. Decisions/resolutions/orders of the Office of the President shall, except as otherwise provided by special laws, become final after lapse of fifteen (15) days from receipt of a copy thereof by the parties, unless a motion for reconsideration is filed within such period."

As stated earlier, however, the applicable law in this case is P.D. No. 309 involving as it does conflicting mining claims of petitioner ISMI and Brett, et al. Section 5 thereof states in full that —

"Sec. 5. Any party not satisfied with the decision or order of the Director of Mines may, within five (5) days from receipt thereof, appeal to the Secretary of Agriculture and Natural Resources who shall render his decision within five (5) days from receipt of the appeal or submission of the report of the Department panel of investigators, as the case may be. From the decision of the Secretary, an appeal may be taken within five (5) days to the President whose decision shall be final and executory.

The decision of the Director of Mines shall be immediately executory, notwithstanding the appeal, unless the Secretary of Agriculture and Natural Resources or the President directs otherwise."

Admittedly, P.D. No. 309 is silent as to the applicable reglementary period for filing a motion for reconsideration of the decision of the President. It must be noted, however, that Section 5 thereof has uniformly set to five (5) days the period within which to appeal from the Director of Mines to the Secretary and from the latter to

the President. Hence, it is the considered view of the Court that for purposes of determining its timeliness, the motion for reconsideration must likewise be filed within five (5) days from receipt of the decision of the President in keeping with the intent of the aforesaid law. The "whereas clauses" of P.D. No. 309 expressly state that:

"WHEREAS, efforts of the government to encourage and accelerate the development of our mineral resources has been hampered by difficulties and delays in the settlement of conflicting mining claims because of obsolete laws, rules and regulations;

"WHEREAS, in order to hasten the exploitation and development of our mineral resources conflicting mining claims must be settled promptly and decisively;

"x x x;"

Since petitioner filed its motion for reconsideration more than five (5) days from receipt of the decision of the OP, the latter correctly denied the same for having been filed out of time.

In any event, the denial by the OP of petitioner's motion for reconsideration was not based solely on the ground that it was filed late. The assailed resolution of the OP dated 15 June 1993 also stated that:

"Upon restudy, We find no cogent reason to disturb, much less set aside the subject Decision, the argument relied upon by movant having been previously considered, discussed at length, and found unmeritorious by this Office in the Decision sought to be reconsidered. Consequently, the present motion for reconsideration being pro forma (Dacanay vs. Avenida, 30 SCRA 31 [1969]), and movant having failed to adduce new or additional grounds that would warrant a reversal of said Decision, this Office is left with no other recourse than to deny the subject motion.

x x x "[10]

Indeed, the issues raised by petitioner ISMI in its motion for reconsideration filed with the OP, had already been passed upon by said office in its decision of 12 January 1993. We discuss below these issues as well as the findings and conclusions of the OP in relation thereto.

In holding that the mining claims of petitioner are null and void, the OP relied upon the findings of the Bureau that said mining claims are "floating" since their corner Posts No. 1 are respectively tied to their Initial Posts No. 1 without any reference to fixed natural objects or permanent monuments.^[11] According to the Bureau, these are not valid tie points as they are not in accordance with the requirements of