

## FIRST DIVISION

[ G.R. No. 63528, September 09, 1996 ]

**ATOK BIG-WEDGE MINING COMPANY, PETITIONER, VS. HON. INTERMEDIATE APPELLATE COURT AND TUKTUKAN SAINGAN, RESPONDENTS.**

### D E C I S I O N

**HERMOSISIMA, JR., J.:**

In the face of two sets of divergent rulings of the Supreme Court on the nature of the rights of mining claimants over the land where their claim is located, the parties herein seek a definitive ruling on the issue: What is actually the right of a locator of a mining claim located and perfected under the Philippine Bill of 1902 over the land where the claim is found? Does he have an absolute right of ownership thereof or does he have the mere right to possess and claim the same? Whose right to the land should, therefore, prevail: the mining claimant's or that of an applicant for land registration? Does the mere recording or location of a mining claim *ipso facto* and irreversibly convert the land into mineral land, notwithstanding the fact that the mining claimant failed to comply with the strict work requirement under the Philippine Bill of 1902?

Petitioner Atok Big Wedge Mining Company appeals from the decision<sup>[1]</sup> of the Court of Appeals<sup>[2]</sup> which reversed the decision<sup>[3]</sup> of the then Court of First Instance of Baguio City<sup>[4]</sup> in a land registration case.<sup>[5]</sup> The court a quo denied and correspondingly dismissed the application for registration of title filed by private respondent Tuktukan Saingan, finding no merit in Saingan's claim of adverse, open and continuous possession in concept of an owner of the tract of land applied for by him, which happened to be claimed by petitioner as part of its mining claim duly recorded by the Mining Recorder of Benguet. Respondent appellate court found petitioner to have abandoned its mining claim over the said tract of land and, on the other hand, adjudged private respondent to be the owner thereof by virtue of his having possessed the same under a bona fide claim of ownership for at least thirty (30) years prior to the filing of his land registration application in 1965.

The court a quo made the following findings of fact:

***"Applicant [private respondent] seeks the registration of a parcel of land with an area of 41,296 square meters situated in the barrio of Lucnab, Itogon, Benguet, which is shown in survey plan Psu-209851 x x x.***

***The evidence for the applicant [private respondent] who was 70 years old at the time he testified shows that he acquired the land from his father-in-law, Dongail, when he married his daughter; that he was then 18 years old; that at the time of his acquisition,***

***it was planted with camotes, casava [sic], langka, gabi, coffee and avocados; that he lived on the land since his marriage up to the present; that he has been paying the taxes during the Japanese occupation and even before it; that he was never disturbed in his possession. Supporting his oral testimony, applicant [private respondent] submitted tax declarations x x x both dated March 20, 1948, the former for a rural land and the latter for urban land and improvement therein. The receipt showing payment of the taxes on such tax declarations is dated Feb. 8, 1949 x x x. The said tax declarations x x x show that they cancel tax declaration No. 439 dated Feb. 10, 1947 which was presented by the Oppositor [petitioner] Atok Big Wedge Mining Company as its Exhibit 14, and the land tax under Exh. 14 was paid by applicant [private respondent] in 1947 x x x. Applicant [private respondent] has also submitted Exh. `C', which indicates that all pre-war records of tax declarations and real property receipts of the municipality of Itogon where the property is located were burned and destroyed during the last world war.***

***The Bureau of Lands and Bureau of Forestry, represented by the Provincial fiscal, oppose [sic] application. The Atok Big Wedge Mining Company came in also as oppositor claiming that the land in question is within its mineral claims - Sally, Evelyn and Ethel x x x Atok Big Wedge Mining Company submitted Exhibits 6, 7 and 8, all showing that the annual assessment work of these mineral claims were maintained from 1932 to 1967 for Sally and Evelyn and from 1946 to 1967 for Ethel. It was likewise shown that these mineral claims were recorded in the mining recorder's office; Sally and Evelyn on Jan. 2, 1931 and Ethel on March 18, 1921 x x x."***<sup>[6]</sup>

The respondent appellate court additionally found that the tract of land in question "according to the evidence, Exh. 2, covers portion of mineral claims, Sally, Evelyn, and Ethel, the first two located by one Reynolds in 1931 and the last, also by Reynolds in 1921"<sup>[7]</sup> but "Atok x x x has not even been shown how connected with locator Reynolds."<sup>[8]</sup> Private respondent reiterates this fact in his Comment:

***"x x x (T)he mining claims have become vested rights and properties of the locators, Messrs. H. I. Reynolds and E. J. Harrison.***

***However, the locators, Reynolds and Harrison, or the PETITIONERS herein, assuming that there is any relation between Atok Big Wedge Mining Co., and the locators, Reynolds and Harrison, have never shown that their rights have been preserved or remain vested.***

***x x x***

***Furthermore, when the land in question was registered in the office of the Mining Recorder in 1921, and 1931, respectively, the mineral claims covering the land in question namely: Sally,***

***Evelyn and Ethel were in the name of the Locators E. J. Harrison and H. I. Reynolds. No evidence was ever presented as to how Petitioner herein obtained ownership over said claims during the hearing of this case in the Lower Court up to this time. It was not even shown how Petitioner herein, Atok Big Wedge Mining Co., is connected or related to locator Reynolds. x x x"***<sup>[9]</sup>

Significantly, nothing in the subsequent pleadings filed by petitioner rebuts, disputes or proves otherwise, the aforecited issue raised by private respondent with regard to its personality, interests and authority to oppose the application for registration filed by private respondent respecting land to which petitioner claims rights but as to which it is not the duly recorded mining locator.

The Director of Lands, thru the Office of the Solicitor General, opposed private respondent's application on the ground that the applicant did not have title in fee simple over the questioned land and that he had not exercised continuous, exclusive and notorious possession and occupation over the said land for at least thirty (30) years immediately preceding the filing of the application. However, the Solicitor General no longer joined petitioner in this ultimate appeal, the Solicitor General later conceding existence of private respondent's rights.

Petitioner's presentation of evidence proving registration of the mining claims of petitioner in the Mining Recorder of Benguet dating back to 1931, at the latest, notably about sixteen (16) years before private respondent declared the land in question for taxation purposes and thirty four (34) years before private respondent filed the land registration proceedings in 1965, apparently impressed the court a quo. And so it ruled in favor of petitioner as oppositor in the land registration proceedings, the court a quo ratiocinating in this wise:

***"x x x (T)he mining claims were recorded ahead of the time when the applicant [private respondent] declared the land for taxation purposes based on his documentary exhibits. So the evidence of the applicant [private respondent] cannot prevail over the documentary exhibits of the oppositor Atok Big Wedge Mining Company. The government oppositors adopted the evidence of the mining company.***

***Moreover, if applicant [private respondent] was already in possession and occupation of the land in the concept of owner, as claimed, it is strange that he did not oppose its survey when the mining company surveyed the area preparatory to its recording in the mining recorder's office. The conclusion is that he was not yet there when the survey by the mining company was conducted or if he was already there the nature of his occupation was not in the concept of owner for otherwise he could have asserted it at the time.***

***The foregoing facts show that the mining company had established its rights long before applicant [private respondent] asserted ownership over the land. The perfection of mining claims over the mineral lands involved segregate [sic] them from***

***the public domain and the beneficial ownership thereof became vested in the locator."*<sup>[10]</sup>**

The trial court having dismissed private respondent's application for registration on the ground that petitioners had already acquired a vested right over the subject land, private respondent appealed to the respondent court. The Director of Lands, thru the Solicitor General, adopted as his own, the appellee's brief filed by petitioner.

The respondent appellate court, on its part, correctly considered inadequate, however, the mere recording of petitioner's mining claims in the Mining Recorder of Benguet and the corresponding, albeit religious, payment of annual assessment fees therefor, to vest in petitioner ownership rights over the land in question. Truly, under Executive Order No. 141<sup>[11]</sup>, the payment of annual assessment fees is only proof of compliance with the charges imposed by law and does not constitute proof of actual assessment work on the mining land concerned. Respondent court ruled in this connection:

***"x x x (I)t must be conceded that the same having been located and existing since 1921 and 1931, the rights of locator if correspondingly preserved, remained vested, - but as this Court also examines the evidence, what has been shown is that affidavits of assessment work had been filed, yes, from 1932 in connection with claim Sally and from 1933 as to Evelyn, and from 1936 as to claim Ethel, but tsn. would not show that in truth and in fact, there had been that assessment work on the claims, [sic] witness Pelayo of Atok admits that he had not gone over the area x x x in fact he joined the company in 1962 only, [sic] in other words, all that Atok has shown as to assessment work is the affidavit thereon, but as Ex. Order 141 of 1 August, [sic] 1968 has said:***

***"(W)hat matters is [sic] maintaining and preserving possessory rights to the claims is the continuous performance of the required assessment work, not the filing of an affidavit which may be disproved by findings of [sic] the ground,'***

***and here, the very fact that applicant has possessed continuously apparently without protest from Atok x x x must disprove the truth that locator or Atok had indeed done assessment work x x x."*<sup>[12]</sup>**

Private respondent, in support of respondent court's quoted findings, points out in his pleadings that:

"x x x The APPLICANT [private respondent] constructed various improvements on the land consisting of his 3 residential houses, fruit trees, ricefields and other permanent improvements. x x x

x x x

On the other hand, the PETITIONER Mining company has not shown that it has introduced a single improvement ('assessment work') on the

property. It has only paid the minimum annual assessment required by law of P200.00 a year. There was no evidence, whatsoever, of its alleged 'factual' possession of the property. No assessment work was shown during the ocular inspection ordered by the Honorable Trial Court neither during the ocular inspection conducted by the Bureau of Forestry.

THIS ritual of paying the uniform sum of P200.00 a year for alleged assessment work is not enough evidence that such assessment work was actually made. It is precisely for this reason that Executive Order 141 dated August 1, 1968 was issued by the President of the Philippines. This order made it mandatory that it is not enough to pay P200.00 a year but there must be actual continuous assessment work done on the surface of the mineral claims. x x x" [Underscoring supplied by private respondent.][13]

Also, private respondent also additionally informs this court that:

"x x x PETITIONER Atok Big Wedge Mining Company has, on October 12, 1978, converted its application on mineral claims in question (SALLY, EVELYN and ETHEL) into mining lease only in compliance with Presidential Decree 1214. PETITIONER mining company is now a mere lessee of the mining claims. And as such lessee, it has no right on the surface rights of such mineral claims. An official certification to that effect by the Bureau of Mines & Geo-Sciences, Regional Office No. 1 of the City of Baguio is hereby attached as Annex 'A' and made integral part hereof. x x x." [14]

an allegation which obviously clinches this case in his favor.

Respondent court having reversed the trial court's decision on the ground that private respondent had, by sufficient evidence, shown his right to registration over the contested parcel of land, petitioner elevated its cause to this court. The Director of Lands, however, did not join in petitioner's appeal. Thus, in a Manifestation and Motion, dated June 21, 1983, [15] the Director of Lands, thru the Solicitor General, acknowledged that "the respondent Court's decision has become final with respect to the Director of Lands." [16]

Petitioner, left to its own by the Director of Lands, cites the following grounds for the grant of the instant petition:

## **"I**

**THAT THE LAND IN QUESTION HAD LONG BEEN SEGREGATED FROM THE PUBLIC DOMAIN AND OWNERSHIP THERETO HAD LONG BECOME VESTED IN HEREIN PETITIONER WHEN ITS MINING CLAIMS IN QUESTION WERE REGISTERED IN THE OFFICE OF THE MINING RECORDER IN 1921 AND 1931 RESPECTIVELY.**

## **II**

**THAT THE COURT OF APPEALS COMMITTED A GRAVE ABUSE OF DISCRETION IN FINDING THAT THE APPLICANT WAS IN**