



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

**APO
CORPORATION,**

CEMENT

G.R. No. 206728

Petitioner,

Present:

- versus -

**MINGSON
INDUSTRIES CORPORATION,**
Respondent.

MINING

VELASCO, JR.,*
LEONARDO-DE CASTRO,
Acting Chairperson,**
DEL CASTILLO,***
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

NOV 12 2014

X-----X

R E S O L U T I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated June 13, 2012 and the Resolution³ dated April 23, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 100456 which affirmed the Decision⁴ dated July 31, 2007 of the Department of Environment and Natural Resources (DENR) Mines Adjudication Board (MAB) in MAB Case No. 02-96 (POA Case No. CEB-001).

The Facts

The instant case arose from a dispute involving the mining claims known as “Allied 1 and 2” and “Lapulapu 31 and 32” (subject mining

* Designated Acting Member per Special Order No. 1870 dated November 4, 2014.

** Per Special Order No. 1861 dated November 4, 2014.

*** Designated Acting Member per Special Order No. 1862 dated November 4, 2014.

¹ *Rollo*, pp. 9-35.

² *Id.* at 41-54. Penned by Associate Justice Sesonando E. Villon with Associate Justices Andres B. Reyes, Jr. and Amy C. Lazaro-Javier, concurring.

³ *Id.* at 56.

⁴ *Id.* at 86-90. Signed by Chairman Angelo T. Reyes and Members Armi Jane Roa-Borje and Horacio C. Ramos.

✓

claims) between petitioner Apo Cement Corporation (Apocemco) and respondent Mingson Mining Industries Corporation (Mingson).⁵

For the supposed failure of the old locators to develop and put to productive use the mineral properties found in the area, Apocemco submitted a Mineral Production Sharing Agreement (MPSA) proposal on June 19, 1991 before the DENR,⁶ essentially seeking to take over their current holder, Luvimin Cebu Mining Corporation (Luvimin).⁷

On August 18, 1992⁸ and March 2, 1993,⁹ the DENR - Central Visayas, Region 7 Office (DENR Regional Office) declared the subject mining claims, among others, abandoned and open for location to other interested parties,¹⁰ prompting Luvimin to file an appeal.¹¹

Similarly, Mingson assailed the aforementioned declarations on the ground that its own mining claims, *i.e.*, “Yellow Eagle I to VII,” overlapped with the subject mining claims. Particularly, Mingson averred that its “Yellow Eagle IV” claim was registered on February 7, 1983 and was found to have overlapped with the “Allied 1 and 2” claims, while its “Yellow Eagle III” claim was registered on April 12, 1982 and overlapped with the “Lapulapu 31 and 32” claims.¹²

The DENR Proceedings

In an Order¹³ dated March 1, 1995, the DENR Regional Office decreed that portions of the subject mining claims be awarded to Mingson, considering that said claims have encroached its Yellow Eagle I to VII claims.

However, upon Apocemco’s motion for reconsideration,¹⁴ the DENR Regional Office’s Legal Division issued a Resolution¹⁵ dated September 5, 1995, recommending that the subject mining claims be awarded, instead, to Apocemco, subject, however, to the outcome of Luvimin’s appeal. In an Order¹⁶ dated September 20, 1995, the DENR Regional Director affirmed the foregoing resolution, but subject to the review and concurrence of the Mines and Geosciences Bureau Region 7 - Panel of Arbitrators (POA),

⁵ Id. at 42.

⁶ See *id.*

⁷ Id. at 60.

⁸ CA *rollo*, p. 290.

⁹ Id. at 291-293.

¹⁰ *Rollo*, pp. 42-43.

¹¹ Id. at 43.

¹² Id. at 366.

¹³ CA *rollo*, p. 277-278. Signed by Regional Executive Director Jeremias L. Dolino.

¹⁴ See Appeal dated April 24, 1995; *id.* at 279-283.

¹⁵ Id. at 298-302. Signed by DENR Legal Division OIC-Chief Atty. Fernando S. Alberca.

¹⁶ Id. at 313-314. Signed by DENR Regional Director Eligio Z. Ariate.

considering that pursuant to Section 218¹⁷ of DENR Department Administrative Order No. (DAO) 95-23, Series of 1995,¹⁸ the POA has been mandated to resolve, among others, disputes involving rights to mining areas.

In a Decision¹⁹ dated May 3, 1996, the POA upheld the September 5, 1995 Resolution and the September 20, 1995 Order, reiterating the findings therein made, without, however, requiring the parties to file any pleading or setting the matter for hearing.

Aggrieved, Mingson appealed²⁰ the POA's Decision before the DENR MAB, averring that the said Decision was not supported by facts and the evidence on record, and that it was arbitrary and issued with grave abuse of authority.²¹ Subsequently, in Mingson's letter²² dated August 8, 1996, it claimed denial of due process.

In a Decision²³ dated July 31, 2007, the DENR MAB granted Mingson's appeal and thereby reversed and set aside the POA's Decision. It found that the POA merely conducted a review of the case and Mingson, in particular, was not given an opportunity to be heard, which is repugnant to due process.²⁴

Dissatisfied, Apocemco elevated the matter to the CA.

The CA Ruling

In a Decision²⁵ dated June 13, 2012, the CA dismissed Apocemco's appeal and sustained the DENR MAB's finding that Mingson was not afforded by the POA its right to due process, given that none of the applicable procedures found in DENR DAO 95-23 were followed.²⁶ As an added ground for dismissal, the CA held that Apocemco failed to perfect its appeal in accordance with the Rules of Court, considering that the DENR MAB was not served a copy of its petition.²⁷

¹⁷ SEC. 218. Jurisdiction of Panel of Arbitrators. The Panel of Arbitrators shall have exclusive and original jurisdiction to hear and decide on the following:

(a) Disputes involving rights to mining areas;

x x x x

¹⁸ Otherwise known as the "Implementing Rules and Regulations of the Philippine Mining Act of 1995."

¹⁹ *Rollo*, pp. 364-371. Signed by Attys. Benjamin A. Negapatan and Jermelina P. Ay-ad.

²⁰ Dated July 27, 1996. Id. at 372-377.

²¹ Id. at 373.

²² Id. at 449-451. See also undated Letter; id. at 380-383.

²³ Id. at 86-90.

²⁴ Id. at 88-89.

²⁵ Id. at 41-54.

²⁶ Id. at 48-49.

²⁷ Dated July 4, 2012. Id. at 45-46.

Unconvinced, Apocemco filed a motion for reconsideration²⁸ which was, however, denied in a Resolution²⁹ dated April 23, 2013, hence, the petition.

The Issue Before the Court

The primordial issue in this case is whether or not the CA correctly ordered the dismissal of Apocemco's appeal.

The Court's Ruling

The petition is devoid of merit.

Sections 223³⁰ (on preliminary conference), 224³¹ (on hearing), and 227³² (on the proceedings before the POA), as well as Sections 221³³ (on due course) and 222³⁴ (on answers) of DENR DAO 95-23, or the Implementing Rules of the Philippine Mining Act of 1995,³⁵ clearly require that the parties involved in mining disputes be given the opportunity to be heard. These rules – which were already in effect³⁶ during the time the dispute between the parties arose – flesh out the core requirement of due process; thus, a stark and unjustified contravention of the same would oust the errant tribunal of its jurisdiction and, in effect, render its decision null and void. As explained in *PO2 Montoya v. Police Director Varilla*:³⁷

²⁸ CA rollo, pp. 530-549.

²⁹ Rollo, p. 56.

³⁰ SEC. 223. Preliminary Conference/Compromise Agreement. x x x.

The Panel shall summon the parties to a conference for the purpose of amicably settling the case upon a fair compromise or determining the real parties in interest, defining and simplifying the issues in the case, entering into admissions and/or stipulation of facts, and threshing out all other preliminary matters.

x x x x

³¹ SEC. 224. Hearing. Should the parties fail to agree upon an amicable settlement, either in whole or in part, during the conference, the Panel shall issue an Order requiring the parties to attend the hearing, as scheduled in the aforesaid Order.

x x x x

³² SEC. 227. Proceedings before the Panel. The proceedings before the Panel shall comply substantially with the requirements of due process. The Panel may avail itself of all reasonable means to ascertain the facts of the controversy speedily, including ocular inspection and examination of well-informed persons.

³³ SEC. 221. Due Course. If the Panel of Arbitrators finds that the adverse claim, protest or opposition contains a cause of action and is sufficient in form and substance, it shall give due course thereto by requiring the respondent to answer within a period which shall be fixed by the Panel: Provided, however, that said period shall not be less than five (5) or more than fifteen (15) days from receipt of the summons.

³⁴ SEC. 222. Answer. Such answer shall likewise contain a detailed statement of the facts relied upon by the respondent, an exhaustive rebuttal or refutation of the issues and arguments raised in the adverse claim, protest, or opposition, and all the affirmative defenses that he/she may like to raise and may be accompanied by all supporting documentary evidence and affidavits of all witnesses.

x x x x

³⁵ Republic Act No. 7942, entitled "AN ACT INSTITUTING A NEW SYSTEM OF MINERAL RESOURCES EXPLORATION, DEVELOPMENT, UTILIZATION, AND CONVERSION" (March 3, 1995).

³⁶ DENR DAO 95-23 was issued on August 15, 1995.

³⁷ 595 Phil. 507 (2008).

The cardinal precept is that where there is a violation of basic constitutional rights, courts are **ousted from their jurisdiction**. The violation of a party's right to due process raises a serious jurisdictional issue which cannot be glossed over or disregarded at will. **Where the denial of the fundamental right of due process is apparent, a decision rendered in disregard of that right is void for lack of jurisdiction.**³⁸ (Emphases supplied)

Here, it has been established that the POA proceeded to resolve the present mining dispute without affording either party any fair and reasonable opportunity to be heard in violation of the aforementioned provisions of DENR DAO 95-23. Thus, as correctly ruled by the DENR MAB and later affirmed by the CA, Mingson's due process rights were violated, thereby rendering the POA's Decision null and void.

In this relation, the Court finds it apt to clarify that the DENR MAB did not err in taking cognizance of the due process issue. While such issue was not assigned as an error in Mingson's Appeal³⁹ dated July 27, 1996, the same was squarely raised in Mingson's August 8, 1996 letter⁴⁰ to the DENR MAB. Given the lack of any formal procedure on appeals at that time,⁴¹ the DENR MAB cannot be faulted for considering the letter and the issues raised therein as part of Mingson's appeal. It must be added that the DENR MAB is not a court of law but an administrative body; hence, it is not bound by strict rules of procedure and evidence, and is allowed to use all reasonable means to ascertain the facts of each case speedily and objectively without resort to technical rules,⁴² as in this case.

Besides, an apparent lack of due process may be raised by a party at any time since due process is a jurisdictional requisite that all tribunals, whether administrative or judicial, are duty bound to observe. In *Salva v. Valle*,⁴³ the Court pronounced that "[a] decision rendered without due process is *void ab initio* and may be attacked at anytime directly or collaterally by means of a separate action, or by resisting such decision in any action or proceeding where it is invoked." The Court sees no defensible reason as to why this principle should not be herein applied.

That being said, and considering too Apocemco's failure to comply with Sections 5 and 7,⁴⁴ Rule 43 of the Rules of Court in the proceedings

³⁸ Id. at 520-521.

³⁹ *Rollo*, pp. 372-377.

⁴⁰ Id. at 449-451. See also undated Letter; id. at 380-383.

⁴¹ The Rules on Pleading, Practice and Procedure before the POA and MAB were approved on May 22, 1997.

⁴² Section 7, Rule 5 of The Rules on Pleading, Practice and Procedure before the POA and MAB reads:
SEC. 7. Technical Rules Not Binding – The rules of procedure and evidence prevailing in courts of law and equity shall not be controlling and it is the spirit and intention of these Rules that the [MAB] shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process.


⁴³ G.R. No. 193773, April 2, 2013, 694 SCRA 422, 440.

⁴⁴ Sections 5 and 7, Rule 43 of the Rules of Court read:

before the appellate court, the instant petition is hereby denied and the rulings of the CA are affirmed.


WHEREFORE, the petition is **DENIED**. The Decision dated June 13, 2012 and the Resolution dated April 23, 2013 of the Court of Appeals in CA-G.R. SP No. 100456 are hereby **AFFIRMED**.

SO ORDERED.



ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

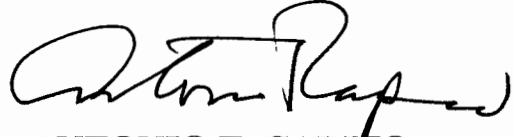
SEC. 5. *How appeal taken.* — Appeal shall be taken by filing a verified petition for review in seven (7) legible copies with the Court of Appeals, with proof of service of a copy thereof on the adverse party and on the court or agency *a quo*. x x x.

x x x x

SEC. 7. *Effect of failure to comply with requirements.* — The failure of the petitioner to comply with any of the foregoing requirements x x x proof of service of the petition, x x x shall be sufficient ground for the dismissal thereof. (n)

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

A handwritten signature in black ink, appearing to read "Antonio T. Carpio". The signature is fluid and cursive, with a large initial "A" and "C".

ANTONIO T. CARPIO
Acting Chief Justice