Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

YINLU BICOL MINING CORPORATION, Petitioner,	**G.R. No. 207942**
	Present:
- versus -	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
TRANS-ASIA OIL AND ENERGY DEVELOPMENT CORPORATION, Respondent.	Promulgated: JAN 12 2015

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DECISION

BERSAMIN, *J.*:

Rights pertaining to mining patents issued pursuant to the Philippine Bill of 1902 and existing prior to November 15, 1935 are vested rights that cannot be impaired.

Antecedents

This case involves 13 mining claims over the area located in Barrio Larap, Municipality of Jose Panganiban, Camarines Norte, a portion of which was owned and mined by Philippine Iron Mines, Inc. (PIMI), which ceased operations in 1975 due to financial losses. PIMI's portion (known as the PIMI Larap Mines) was sold in a foreclosure sale to the Manila Banking Corporation (MBC) and Philippine Commercial and Industrial Bank (PCIB, later Banco De Oro, or BDO).[1]

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[1] *Rollo*,, p. 112.

In 1976, the Gold Mining Development Project Team, Mining Technology Division, The Mining Group of the Bureau of Mines prepared a so-called *Technical Feasibility Study on the Possible Re-Opening of the CPMI Project of PIM (Mining Aspect) and the Exploration Program (Uranium Project) at Larap, Jose Panganiban, Camarines Norte*, which discussed in detail, among others, an evaluation of the ore reserve and a plan of operation to restore the mine to normal commercial mining production and budgetary estimate should the Bureau of Mines take over and run the PIMI Larap Mines. The Government then opened the area for exploration. In November 1978, the Benguet Corporation-Getty Oil Consortium began exploration for uranium under an Exploration Permit of the area, but withdrew in 1982 after four years of sustained and earnest exploration.[2]

Trans-Asia Oil and Energy Development Corporation (Trans-Asia) then explored the area from 1986 onwards. In 1996, it entered into an operating agreement with Philex Mining Corporation over the area, their agreement being duly registered by the Mining Recorder Section of Regional Office No. V of the Department of Environment and Natural Resources (DENR). In 1997, Trans-Asia filed an application for the approval of Mineral Production Sharing Agreement (MPSA)[3] over the area in that Regional Office of the DENR, through the Mines and Geosciences Bureau (MGB), in Daraga, Albay. The application, which was amended in 1999, was granted on July 28, 2007 under MPSA No. 252-2007-V, by which Trans-Asia was given the exclusive right to explore, develop and utilize the mineral deposits in the portion of the mineral lands.[4]

On August 31, 2007, Yinlu Bicol Mining Corporation (Yinlu) informed the DENR by letter that it had acquired the mining patents of PIMI from MBC/BDO by way of a deed of absolute sale, stating that the areas covered by its mining patents were within the areas of Trans-Asia's MPSA. Based on the documents submitted by Yinlu, four of the six transfer certificates of title (TCTs) it held covered four mining claims under Patent Nos. 15, 16, 17 and 18 respectively named as *Busser*, *Superior*, *Bussamer* and *Rescue* Placer Claims, with an aggregate area of 192 hectares. The areas covered occupied more than half of the MPSA area of Trans-Asia.[5]

On September 14, 2007, Trans-Asia informed Yinlu by letter that it would commence exploration works in Yinlu's areas pursuant to the MPSA, and requested Yinlu to allow its personnel to access the areas for the works to be undertaken. On September 23, 2007, Yinlu replied that Trans-Asia could proceed with its exploration works on its own private property in the Calambayungan area, not in the areas covered by its (Yinlu) mining patents.[6]

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2 Id. at 113.
3 Id. at 168-193.
4 Id.
5 Id.
6 Id. at 112-114.

This response of Yinlu compelled Trans-Asia to seek the assistance of the MGB Regional Office V in resolving the issues between the parties. It was at that point that Trans-Asia learned that the registration of its MPSA had been put on hold because of Yinlu's request to register the deed of absolute sale in its favor.[7]

The matter was ultimately referred to the DENR Secretary, who directed the MGB Regional Office V to verify the validity of the mining patents of Yinlu. On November 29, 2007, the MGB Regional Office V informed the Office of the DENR Secretary that there was no record on file showing the existence of the mining patents of Yinlu. Accordingly, the parties were required to submit their respective position papers.[8]

The issues presented for consideration and resolution by the DENR Secretary were: (1) whether the mining patents held by Yinlu were issued prior to the grant of the MPSA; and (2) whether the mining patents were still valid and subsisting.[9]

On May 21, 2009, DENR Secretary Jose L. Atienza, Jr. issued his order resolving the issues in Yinlu's favor,[10] finding that the mining patents had been issued to PIMI in 1930 as evidenced by and indicated in PIMI's certificates of title submitted by Yinlu; and that the patents were validly transferred to and were now owned by Yinlu.[11] He rejected Trans-Asia's argument that Yinlu's patents had no effect and were deemed abandoned because Yinlu had failed to register them pursuant to Section 101 of Presidential Decree No. 463, as amended. He declared that the DENR did not issue any specific order cancelling such patents. He refuted Trans-Asia's contention that there was a continuing requirement under the Philippine Bill of 1902 for the mining patent holder to undertake improvements in order to have the patents subsist, and that Yinlu failed to perform its obligation to register and to undertake the improvement, observing that the requirement was not an absolute imposition. He noted that the suspension of PIMI's operation in 1974 due to financial losses and the foreclosure of its mortgaged properties by the creditor banks (MBC/PCIB) constituted *force majeure* that justified PIMI's failure in 1974 to comply with the registration requirement under P.D. No. 463; that the Philippine Bill of 1902, which was the basis for issuing the patents, allowed the private ownership of minerals, rendering the minerals covered by the patents to be segregated from the public domain and be considered private property; and that the Regalian doctrine, under which the State owned all natural resources, was adopted only by the 1935, 1973 and 1987 Constitutions.[12]

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7 Id. at 114.
8 Id.
9 Id. at 127.
10 Id. at 123-128.
11 Id. at 127-128.
12 Id. at 128.

Consequently, DENR Secretary Atienza, Jr. ordered the amendment of Trans-Asia's MPSA by excluding therefrom the mineral lands covered by Yinlu's mining patents, to wit:

> WHEREFORE, premises considered, the Mineral Production Sharing Agreement No. 252-2007-V is hereby ordered amended, to excise therefrom the areas covered by the mining patents of Yinlu Bicol Mining Corporation as described and defined in the Transfer Certificates of Title concerned: Provided, That the consequent conduct of mining operations in the said mining patents shall be undertaken in accordance with all the pertinent requirements of Republic Act No. 7942, the Philippine Mining Act of 1995, and its implementing rules and regulations.
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> SO ORDERED.[13]

Trans-Asia moved for reconsideration,[14] but the DENR Secretary denied the motion on November 27, 2009, holding in its resolution that the arguments raised by the motion only rehashed matters already decided.[15]

Trans-Asia appealed to the Office of the President (OP).

On May 4, 2010, the OP rendered its decision in O.P. Case No. 09-L-638 affirming *in toto* the assailed order and resolution of the DENR Secretary,[16] to wit:

> The first contention of appellee is untenable. It is conceded that Presidential Decree (PD) No. 463, otherwise known as the Mineral Resources Development Decree, prescribed requirements for the registration of all mining patents with the Director of Mines within a certain period, among others. The existence of the mining claims were in fact registered in the Office of the Register of Deeds for the Camarines Norte prior to the issuance of PD 463, as found in the 4 TCT's issued to PIMI that were foreclosed by MBC, and eventually purchased by appellee through an Absolute Deed of Sale. The existence of the mining patents, therefore, subsists. Under the Philippine Constitution, there is an absolute prohibition against alienation of natural resources. Mining locations may only be subject to concession or lease. The only exception is where a location of a mining claim was perfected prior to November 15, 1935, when the government under the 1935 Constitution was inaugurated, and according to the laws existing at that time a valid location of a mining claim segregated the area from the public domain, and the locator is entitled to a grant of the beneficial ownership of the claim and the right to a patent therefore **(Gold Creek Mining Corporation vs. Rodriguez, 66 Phil 259)**. The right of the locator to the mining patent is a vested right,

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13 Id.
14 Id. at 129-144.
15 Id. at 121-122.
16 Id. at 112-118.

> and the Constitution recognizes such right as an exception to the prohibition against alienation of natural resources. The right of the appellee as the beneficial owner of the subject mining patents in this case, therefore, is superior to the claims of appellant.
>
> The existence of the TCT's in the name of appellee further bolsters the existence of the mining patents. Under PD 1529, also known as the Property Registration Decree, once a title is cleared of all claims or where none exists, the ownership over the real property covered by the Torrens title becomes conclusive and indefeasible even as against the government. Noteworthy is the fact that the title trace backs of the said TCTs show that the titles were executed in favour of the appellee's predecessors-in-interest pursuant to Act No. 496, otherwise known as the Land Registration Act of 1902, in relation to the Philippine Bill of 1902, which govern the registration of mineral patents.
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> x x x x
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> After a careful and thorough evaluation and study of the records of this case, this Office agrees with the DENR, as the assailed decisions are in accord with facts, law and jurisprudence relevant to the case.
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> **WHEREFORE**, premises considered, the assailed Order and Resolution of the DENR dated May 21, 2009 and November 27, 2009, respectively, are hereby **AFFIRMED** *in toto*.
>
> **SO ORDERED**.[17]

Trans-Asia filed a first and a second motion for reconsideration.

Trans-Asia stated in its first motion for reconsideration that the OP erred: (1) in resurrecting Yinlu's mining patents despite failure to comply with the requirements of Presidential Decree No. 463; (2) in holding that Yinlu's predecessors-in-interest had continued to assert their rights to the mining patents; and (3) in not holding that the mining patent had been abandoned due to laches. The OP denied the first motion through the resolution dated June 29, 2010,[18] emphasizing that there was no cogent reason to disturb the decision because the grounds were mere reiterations of arguments already passed upon and resolved.

Nothing daunted, Trans-Asia presented its second motion for reconsideration, but this motion was similarly denied in the resolution of March 31, 2011,[19] the OP disposing thusly:

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17 Id. at 116-118.
18 Id. at 110.
19 Id. at 104-107.

> After a second thorough evaluation and study of the records of this case, this Office finds no cogent reason to disturb its earlier Decision. The second paragraph of Section 7, Administrative Order No. 18 dated February 12, 1987 provides that "[*o]nly one motion for reconsideration by any one party shall be allowed and entertained, save in exceptionally meritorious cases*." This second motion is clearly unmeritorious.
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> WHEREFORE, premises considered, the instant motion is hereby DENIED. The Decision and Resolution of this Office dated May 4, 2010 and June 29, 2010, respectively, affirming the DENR decisions, are hereby declared final. Let the records of the case be transmitted to the DENR for its appropriate disposition.
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> SO ORDERED.[20]

Trans-Asia then appealed to the Court of Appeals (CA).

On October 30, 2012, the CA promulgated the assailed decision reversing and setting aside the rulings of the DENR Secretary and the OP.[21] It agreed with the DENR Secretary and the OP that Yinlu held mining patents over the disputed mining areas, but ruled that Yinlu was required to register the patents under PD No. 463 in order for the patents to be recognized in its favor. It found that Yinlu and its predecessors-in-interest did not register the patents pursuant to PD No. 463; hence, the patents lapsed and had no more effect,[22] *viz*:

> **WHEREFORE**, premises considered, the petition is hereby **GRANTED**. The Decision dated May 4, 2010, as well as the Resolutions dated June 29, 2010 and March 31, 2011, respectively, rendered by the Office of the President in OP Case No. 09-L-638, and the Order dated May 21, 2009 as well as the Resolution dated November 27, 2009 issued by the DENR Secretary in DENR Case No. 8766 are **REVERSED and SET ASIDE**.
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> **SO ORDERED.**[23]

Yinlu sought reconsideration of the decision. On June 27, 2013, the CA denied the motion for reconsideration.[24]

Issues

In its appeal, Yinlu raises the following issues, namely:

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[20] Id. at 107.
[21] Id. at 47-66; penned by Associate Justice Ramon A. Cruz, with Associate Justice Noel G. Tijam and Associate Justice Romeo F. Barza, concurring.
[22] Id. at 56-66.
[23] Id. at 66.
[24] Id. at 70-72.

I.

WHETHER OR NOT THE PETITION FOR CERTIORARI FILED BEFORE THE COURT OF APPEALS WAS FILED BEYOND THE REGLEMENTARY PERIOD.

II.

WHETHER OR NOT PETITIONER YINLU'S MINING PATENTS ARE VALID, EXISTING AND IMPERVIOUS TO THE MINERAL PRODUCTION SHARING AGREEMENT SUBSEQUENTLY GRANTED TO THE RESPONDENT TRANS-ASIA.

III.

WHETHER OR NOT PETITIONER YINLU'S TITLES BASED ON "PATENTS" WERE MINING PATENTS OR SOME OTHER PATENT.

IV.

WHETHER OR NOT PETITIONER YINLU'S PURCHASE OF ITS TITLES INCLUDED PURCHASE OF THE MINERALS FOUND THEREIN.

V.

WHETHER OR NOT THE COURT OF APPEALS DISREGARDED CONSTITUTIONAL RIGHT OF PETITIONER YINLU THAT IT'S PRIVATE PROPERTY SHALL NOT BE TAKEN FOR PUBLIC USE WITHOUT JUST COMPENSATION.

VI.

WHETHER OR NOT THE PRINCIPLE OF LACHES APPLY TO TITLED PROPERTY.

VII.

WHETHER OR NOT THE SHARE OF THE REPUBLIC OF THE PHILIPPINES IN ITS NATURAL RESOURCES WAS AFFECTED BY THE MINING PATENTS OF PETITIONER YINLU.[25]

Ruling

The petition is meritorious.

I
Procedural Issue:
Tardiness of Trans-Asia's Appeal

Yinlu contends that the CA should have outrightly dismissed Trans-Asia's appeal for being taken beyond the required period for appealing; and that Trans-Asia's filing of the second motion for reconsideration was improper inasmuch as the motion did not cite any exceptional circumstances

[25] Id. at 15-16.

or reasons as required by Section 7 of the OP's Administrative Order No. 18 Series of 1987.[26]

The contention of Yinlu is correct.

Section 1,[27] Rule 43 of the *Rules of Court* provides that a judgment rendered by the OP in the exercise of its quasi-judicial function is appealable to the CA. Section 4[28] of the Rule states that the appeal must be taken within 15 days "from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration x x x."

Trans-Asia received a copy of the OP resolution dated June 29, 2010 denying the first motion for reconsideration on July 14, 2010.[29] Hence, it had until July 29, 2010 to appeal to the CA by petition for review. However, it filed the petition for review only on May 11, 2011,[30] or nearly 10 months from its receipt of the denial. Under the circumstances, its petition for review was filed way beyond the prescribed 15-day period.

The CA opined that Trans-Asia's petition for review was timely filed, citing the fact that Trans-Asia filed its second motion for reconsideration dated July 20, 2010 which the OP denied through the resolution dated March 31, 2011. It pointed out that Trans-Asia received a copy of the resolution dated March 31, 2011 on April 26, 2011; hence, the 15-day appeal period should be reckoned from April 26, 2011, rendering its filing of the petition for review in the CA on May 11, 2011 timely and within the required period. It observed that Trans-Asia's filing of the second motion for reconsideration was allowed under Section 7 of Administrative Order No. 18 of the OP Rules on Appeal because the second motion was exceptionally meritorious,

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26 Id. at 17-20.

27 Section 1. *Scope*. — This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law. (n)

28 Section 4. *Period of appeal*. — The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *a quo*. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days. (n)

29 *Rollo*, pp. 360.

30 Id. at 73-100.

not *pro forma*, for, even if the motion reiterated issues already passed upon by the OP, that alone did not render the motion *pro forma* if it otherwise complied with the rules.[31]

It is true that Section 7 of Administrative Order No. 18 of the OP Rules on Appeal authorizes the filing of a second motion for reconsideration. But that authority is conditioned upon the second motion being upon a highly meritorious ground.[32] The rule remains to be only one motion for reconsideration is allowed. In that regard, the Court stresses that the determination of whether or not the ground raised in the second motion for reconsideration was exceptionally meritorious lies solely belonged to the OP.[33] The CA could not usurp the OP's determination in order to make its own.

As earlier indicated, the OP found and declared the second motion for reconsideration of Trans-Asia "clearly unmeritorious" when it denied the motion on March 31, 2011. Consequently, the filing of the second motion for reconsideration on July 20, 2010 did not stop the running of the appeal period that had commenced on July 14, 2010, the date of receipt by Trans-Asia of the OP resolution denying the first motion for reconsideration. The decision of the OP inevitably became final and immutable as a matter of law by July 29, 2010, the last day of the reglementary period under Section 4 of Rule 43.

In taking cognizance of Trans-Asia's appeal despite its tardiness, therefore, the CA gravely erred. Under Section 4 of Rule 43, the reckoning of the 15-day period to perfect the appeal starts from the receipt of the resolution denying the motion for reconsideration. Section 4 specifically allows only one motion for reconsideration to an appealing party; as such, the reckoning is from the date of notice of the denial of the first motion for reconsideration.[34] With Trans-Asia having received the denial on July 14, 2010, its 15-day appeal period was until July 29, 2010. The filing of the petition for review only on May 11, 2011 was too late.

Verily, an appeal should be taken in accordance with the manner and within the period set by the law establishing the right to appeal. To allow Trans-Asia to transgress the law would be to set at naught procedural rules that were generally mandatory and inviolable. This is because appeal, being neither a constitutional right nor part of due process, is a mere statutory privilege to be enjoyed by litigants who comply with the law allowing the appeal. Failure to comply will cause the loss of the privilege. Moreover,

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31 Id. at 53-56.

32 *Securities and Exchange Commission v. PICOP Resources, Inc.*, G.R. No. 164314, September 26, 2008, 566 SCRA 451, 466.

33 Id. at 468.

34 Id. at 465-466.

procedural rules prescribing the time within which certain acts must be done are indispensable to the prevention of needless delays and to the orderly and speedy discharge of judicial business. Among such rules is that regulating the perfection of an appeal, which is mandatory as well as jurisdictional. The consequence of the failure to perfect an appeal within the limited time allowed is to preclude the appellate court from acquiring jurisdiction over the case in order to review and revise the judgment that meanwhile became final and immutable by operation of law.[35]

Although procedural rules may be relaxed in the interest of substantial justice, there are no reasons to relax them in Trans-Asia's favor. As noted, the OP found the ground for the second motion for reconsideration "clearly unmeritorious." To ignore such finding without justification is to unduly deprive the OP of its authority and autonomy to enforce its own rules of procedure. On the other hand, Trans-Asia could have easily avoided its dire situation by appealing within the period instead of rehashing its already-discarded arguments in the OP.

II
Substantive Issues:
Yinlu's mining patents constituted
vested rights that could not be disregarded

The finality and immutability of the decision of the OP are not the only reasons for turning down Trans-Asia's appeal. Trans-Asia's cause also failed the tests of substance and validity.

Yinlu claims that its mining patents, being evidenced by its TCTs that were registered pursuant to Act No. 496 (Land Registration Act of 1902) in relation to the Philippine Bill of 1902 (Act of Congress of July 1 , 1902), the governing law on the registration of mineral patents, were valid, existing and indefeasible; that it was the absolute owner of the lands the TCTs covered; that the TCTs were issued pursuant to mineral patents based on Placer Claims[36] named *Busser*, *Superior*, *Bussamer* and *Rescue*; that the TCTs were presented to and confirmed by the DENR and the OP; that Section 21 of the Philippine Bill of 1902 allowed citizens of the United States and of the Philippine Islands to explore, occupy and purchase mineral lands; that after the exploration and claim of the mineral land, the owner of the claim and of the mineral patents was entitled to all the minerals found in the area subject of the claim as stated in Section 27 of the Philippine Bill of 1902; that the

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[35] *Air France Philippines v. Leachon*, G.R. No. 134113, October 12, 2005, 472 SCRA 439, 442-443; *Balgami v. Court of Appeals*, G.R. No. 131287, December 9, 2004, 445 SCRA 591, 602.

[36] In the United States, a "placer claim" granted to the discoverer of valuable minerals contained in loose material such as sand or gravel the right to mine on public land *(en.wikipedia.org/wiki/Gold_placer_claim)*; As used in the United States Revised Statutes, a "placer claim" means ground that includes valuable deposits not in place, that is, not fixed in rock, but which are in a loose state. (Narciso Peña, *Philippine Law on Natural Resources*, 111 (1997).

person holding even a mere mineral claim was already entitled to all the minerals found in such area; that, as such, the mineral claims that had been patented and perfected by registration still enjoyed the same privilege of exclusivity in exploiting the minerals within the patent; that aside from being entitled to the minerals found within the mineral claim and patent, it was also entitled to the exclusive possession of the land covered by the claim; that its mining patents are property rights that the Government should not appropriate for itself or for others; that its registered mineral patents, being valid and existing, could not be defeated by adverse, open and notorious possession and prescription; that its substantive rights over mineral claims perfected under the Philippine Bill of 1902 subsisted despite the changes of the Philippine Constitution and of the mining laws; that the Constitution could not impair vested rights; that Section 100 and Section 101 of PD No. 463 would impair its vested rights under its mineral patents if said provisions were applied to it; and that Section 99 of PD No. 463 expressly prohibited the application of Section 100 and Section 101 to vested rights.[37]

Yinlu asserts that contrary to the claim of Trans-Asia, the titles issued to it were mining patents, not homestead patents.[38] It stresses that the TCTs from which it derived its own TCTs were issued pursuant to Patents 15, 16, 17 and 18; that under the Philippine Bill of 1902, there was no mineral patent separate from the original certificate of title issued pursuant thereto; that the mineral patent applied for under the procedure outlined in the Philippine Bill of 1902 resulted to an original certificate of title issued under Act No. 496; that the beginning statements mentioned in Yinlu's title stated "*pursuant to Patent No._____,_____Placer Claim*;" that as such, its mineral patents were part of its actual titles; that Section 21 of the Philippine Bill of 1902 allowed the titling of the land and the exploration of both the surface and the minerals beneath the surface; and that its TCTs were already inclusive of the minerals located in the properties by virtue of the Philippine Bill of 1902, and thus could not be separately sold or mortgaged from each other.[39]

The decision of the OP was actually unassailable in point of law and history.

During the period of Spanish colonization, the disposition and exploration of mineral lands in the Philippines were governed by the Royal Decree of May 14, 1867,[40] otherwise known as The Spanish Mining Law.[41] The Regalian doctrine was observed, to the effect that minerals belonged to the State wherever they could be found, whether in public or private lands.

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37 *Rollo*, pp. 20-34.
38 Id. at 34-35.
39 Id. at 35.
40 Narciso Peña, *Philippine Law on Natural Resources*, 104 (1997).
41 *Atok Big-Wedge Mining Co. v. Intermediate Appellate Court*, G.R. No. 63528, September 9, 1996, 261 SCRA 528, 546.

During the American occupation, the fundamental law on mining was incorporated in the Philippine Bill of 1902, whose Section 21[42] declared: *That all valuable mineral deposits in public lands in the Philippine Islands, both surveyed and unsurveyed, are hereby declared to be free and open to exploration, occupation, and purchase, and the land in which they are found to occupation and purchase, by citizens of the United States, or of said Islands*. Its Section 27 provided that a holder of the mineral claim so located was entitled to all the minerals that lie within his claim, but he could not mine outside the boundary lines of his claim. Pursuant to the Philippine Bill of 1902, therefore, once a mining claim was made or a mining patent was issued over a parcel of land in accordance with the relative provisions of the Philippine Bill of 1902, such land was considered private property and no longer part of the public domain. The claimant or patent holder was the owner of both the surface of the land and of the minerals found underneath.

The term *mining claim* connotes a parcel of land containing a precious metal in its soil or rock. It is usually used in mining jargon as synonymous with the term *location*, which means the act of appropriating a mining claim on the public domain according to the established law or rules.[43] A *mining patent* pertains to a title granted by the government for the said mining claim.

Under the 1935 Constitution, which took effect on November 15 1935, the alienation of natural resources, with the exception of public agricultural land, was expressly prohibited. The natural resources being referred therein included mineral lands of public domain, but not mineral lands that at the time the 1935 Constitution took effect no longer formed part of the public domain.

Consequently, such prohibition against the alienation of natural resources did not apply to a mining claim or patent existing prior to November 15, 1935. Jurisprudence has enlightened us on this point.

In *McDaniel v. Apacible*,[44] the petitioner sought to prohibit the Secretary of Agriculture and Natural Resources from leasing a parcel of petroleum land in San Narciso in Province of Tayabas. He claimed that on June 7, 1916 he entered an unoccupied land in San Narciso and located

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[42] Section 21. That all valuable mineral deposits in public lands in the Philippine Islands, both surveyed and unsurveyed, are hereby declared to be free and open to exploration, occupation, and purchase, and the land in which they are found to occupation and purchase, by citizens of the United States, or of said Islands: Provided, that when on any lands in said Islands entered and occupied as agricultural lands under the provisions of this Act, but not patented, mineral deposits have been found, the working of such mineral deposits is hereby forbidden until the person, association, or corporation who or which has entered and is occupying such lands shall have paid to the Government of said Islands such additional sum or sums as will make the total amount paid for the mineral claim or claims in which said deposits are located equal to the amount charged by the Government for the same as mineral claims.

[43] Narciso Peña, supra note 40, at 110.

[44] 42 Phil. 749 (1922).

therein three petroleum mineral claims in accordance with the Philippine Bill of 1902; that on July 15, 1916, he recorded the three mineral claims with the mining office of the Municipality of Lucena through notices of location under the names *Maglihi No. 1*, *Maglihi No. 2*, *and Maglihi No. 3*; that he had been in open and continuous possession of the claims since June 7, 1916; that in 1918, he drilled five wells on said claims and made discoveries of petroleum on them; that on June 18, 1921, respondent Juan Cuisia applied with respondent Galicano Apacible, as the Secretary of Agriculture and Natural Resources, for the lease of a land whose boundaries included his three claims; that he protested in writing to Secretary Apacible the inclusion in the Cuisia lease application of his three mineral claims; that Secretary Apacible denied his protest, and was about to grant the lease application by virtue of Act No. 2932; that said law, in so far as it purported to declare open to lease lands containing petroleum oil on which mineral claims had been validly located and held, and upon which discoveries of petroleum oil had been made, was void and unconstitutional for it deprived him of his property without due process of law and without compensation; and that Secretary Apacible was without jurisdiction to lease to Cuisia his mining claims. The Court granted the petition, ruling as follows:

> Mr. Lindlay, one of the highest authorities on Mining Law, has discussed extensively the question now before us. (Lindlay on Mines, vol. I, sections 322, 539.)
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> The general rule is that a perfected, valid appropriation of public mineral lands *operates* as a *withdrawal* of the tract from the body of the public domain, and so long as such appropriation remains valid and subsisting, the land covered thereby is deemed *private property.* A mining claim perfected under the law is property in the highest sense, which may be sold and conveyed and will pass by descent. It has the effect of a grant (patent) by the United States of the right of present and exclusive possession of the lands located. And even though the locator may obtain a patent to such lands, his patent adds but little to his security. (18 Ruling Case Law, p. 1152 and cases cited.)
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> The owner of a perfected valid appropriation of public mineral lands is entitled to the exclusive possession and enjoyment against everyone, including the Government itself. Where there is a valid and perfected location of a mining claim, the area becomes segregated from the public domain and the property of the locator.
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> It was said by the Supreme Court of the State of Oregon, "The *Government itself cannot abridge the rights of the miner to a perfected valid location of public mineral land. The Government may not destroy the locator's right by withdrawing the land from entry or placing it in a state of reservation."* (Belk vs. Meagher, 104 U. S., 279; Sullivan vs. Iron Silver Mining Co., 143 U. S., 431.)
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> A valid and subsisting location of mineral land, made and kept up in accordance with the provisions of the statutes of the United States, has the effect of a grant by the United States of the present and exclusive possession of the lands located, and this exclusive right of possession and

enjoyment continues during the entire life of the location. There is no provision for, nor suggestion of, a prior termination thereof. (Gwillim vs. Donnellan, 115 U. S., 45; Clipper Mining Co. vs. Eli Mining & Land Co., 194 U. S., 220.)

There is *no pretense in the present case that the petitioner has not complied with all the requirements of the law in making the location of the mineral placer claims in question, or that the claims in question were ever abandoned or forfeited by him.* The respondents may claim, however, that inasmuch as a patent has not been issued to the petitioner, he has acquired no property right in said mineral claims. But the Supreme Court of the United States, in the cases of Union Oil Co, vs. Smith (249 U. S., 337), and St. Louis Mining & Milling Co, vs. Montana Mining Co. (171 U. S., 650), held that even without a patent, the possessory right of a locator after discovery of minerals upon the claim is a property right in the fullest sense, unaffected by the fact that the paramount title to the land is in the United States. There is no conflict in the rulings of the Court upon that question. With one voice they affirm that when the right to a patent exists, the full equitable title has passed to the purchaser or to the locator with all the benefits, immunities, and burdens of ownership, and that no third party can acquire from the Government any interest as against him. (Manuel vs. Wulff, 152 U. S., 504, and cases cited.)

Even without a patent, the possessory right of a qualified locator after discovery of minerals upon the claim is a property right in the fullest sense, unaffected by the fact that the paramount title to the land is in the Government, and it is capable of transfer by conveyance, inheritance, or devise. (Union Oil Co. vs. Smith, 249 U. S., 337; Forbes vs. Jarcey, 94 U. 4S., 762; Belk vs. Meagher, 104 U. S., 279; Del Monte Mining Co. vs. Last Chance Mining Co., 171 U. S., 55; Elver vs. Wood, 208 U. S., 226, 232.)

Actual and continuous occupation of a valid mining location, based upon discovery, is not essential to the preservation of the possessory right. The right is lost only by abandonment as by nonperformance of the annual labor required. (Union Oil Co. vs. Smith, 249 U. S., 337; Farrell vs. Lockhart, 210 U. S., 142; Bradford vs. Morrison, 212 U. S., 389.)

The discovery of minerals in the ground by one who has a valid mineral location perfects his claim and his location not only against third persons, *but also against the Government*. A mining claim perfected under the law is property in the highest sense of that term, which may be sold and conveyed, and will pass by descent, and is not therefore subject to the disposal of the Government. (Belk vs. Meagher, 104 U. S., 279, 283; Sullivan vs. Iron Silver Mining Co., 143 U. S., 431; Consolidated Mutual Oil Co. vs. United States, 245 Fed. Rep., 521; Van Ness vs. Rooney, 160 Cal., 131, 136, 137.)

The moment the locator discovered a valuable mineral deposit on the lands located, and perfected his location in accordance with law, the power of the United States Government to deprive him of the exclusive right to the possession and enjoyment of the located claim was gone, the lands had become mineral lands and they were exempted from lands that could be granted to any other person. The reservations of public lands cannot be made so as to include prior mineral perfected locations; and, of course, if a valid mining location is made upon public lands afterward

> included in a reservation, such inclusion or reservation does not affect the validity of the former location. By such location and perfection, the land located is segregated from the public domain even as against the Government. (Union Oil Co. vs. Smith, 249 U. S., 337; Van Ness vs. Rooney, 160 Cal., 131; 27 Cyc, 546.)
>
> From all of the foregoing arguments and authorities we must conclude that, inasmuch as the petitioner had located, held and perfected his location of the mineral lands in question, and had actually discovered petroleum oil therein, he had acquired a property right in said claims; that said Act No. 2932, which deprives him of such right, without due process of law, is in conflict with section 3 of the Jones Law, and is therefore unconstitutional and void. Therefore the demurrer herein is hereby overruled, and it is hereby ordered and decreed that, unless the respondents answer the petition herein within a period of five days from notice hereof, that a final judgment be entered, granting the remedy prayed for in the petition. So ordered.[45]

In *Gold Creek Mining Corporation v. Rodriguez*,[46] the petitioner prayed that Eulogio Rodriguez as the Secretary of Agriculture and Commerce, and Quirico Abadilla, as the Director of the Bureau of Mines, be compelled to approve its application for patent on a certain mining claim. It alleged that it owned the Nob Fraction mineral claim situated in Itogon, Mountain Province, and located on public lands by C. L. O'Dowd in accordance with the provisions of the Philippine Bill of 1902; that said claim was located on January 1, 1929, and was registered in the office of the mining recorder of Mountain Province on January 7, 1929; that by itself and its predecessor-in-interest it had been in continuous and exclusive possession of the claim from the date of location thereof; and that prior to November 15, 1935, it filed an application for patent but both respondents failed and refused to grant the application despite its having complied with all the requirements of the law for the issuance of such patent. On the other hand, the respondents contended that the petitioner was not entitled as a matter of right to a patent to said mineral claim because the 1935 Constitution provided that *"natural resources, with the exception of public agricultural land, shall not be alienated."* The Court ordered the respondents to dispose of the application for patent on its merits, unaffected by the prohibition against the alienation of natural resources provided in Section 1, Article XII of the 1935 Constitution and in Commonwealth Act No. 137, explaining:

> This is one of several cases now pending in this court which call for an interpretation, a determination of the meaning and scope, of section 1 of Article XII of the Constitution, with reference to mining claims. The cases have been instituted as test cases, with a view to determining the status, under the Constitution and the Mining Act (Commonwealth Act No. 137), of the holders of unpatented mining claims which were located under the provisions of the Act of Congress of July 1, 1902, as amended.

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45 Id. at 753-756.

46 66 Phil. 259 (1938).

In view of the importance of the matter, we deem it conducive to the public interest to meet squarely the fundamental question presented, disregarding for that purpose certain discrepancies found in the pleadings filed in this case. This is in accord with the view expressed by the Solicitor-General in his memorandum where he says that "the statements of facts in both briefs of the petitioners may be accepted for the purpose of the legal issues raised. We deny some of the allegations in the petitions and allege new ones in our answers, but these discrepancies are not of such a nature or importance as should necessitate introduction of evidence before the cases are submitted for decision. From our view of the cases, these may be submitted on the facts averred in the complaints, leaving out the difference between the allegations in the pleadings to be adjusted or ironed out by the parties later, which, we are confident, can be accomplished without much difficulty.

Section 1 of Article XII of the Constitution reads as follows:

"Section 1. All agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, and other natural resources of the Philippines belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines, or to corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this Constitution. Natural resources, with the exception of public agricultural land, shall not be alienated, and no license, concession, or lease for the exploitation, development, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for another twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases beneficial use may be the measure and the limit of the grant."

The fundamental principle of constitutional construction is to give effect to the intent of the framers of the organic law and of the people adopting it. The intention to which force is to be given is that which is embodied and expressed in the constitutional provisions themselves. It is clear that the foregoing constitutional provision prohibits the alienation of natural resources, with the exception of public agricultural land. It seems likewise clear that the term "natural resources," as used therein, includes mineral lands of the public domain, but not mineral lands which at the time the provision took effect no longer formed part of the public domain. The reason for this conclusion is found in the terms of the provision itself. It first declares that all agricultural, timber, and mineral lands of the *public domain*, etc., and *other natural resources* of the Philippines, belong to the State. It then provides that "their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines, or to corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this Constitution." Next comes the prohibition against the alienation of natural resources. This prohibition is directed against the alienation of such

natural resources as were declared to be the property of the State. And as only "agricultural, timber, and mineral lands of the public domain" were declared property of the State, it is fair to conclude that mineral lands which at the time the constitutional provision took effect no longer formed part of the public domain, do not come within the prohibition.

This brings us to the inquiry of whether the mining claim involved in the present proceeding formed part of the public domain on November 15, 1935, when the provisions of Article XII of the Constitution became effective in accordance with section 6 of Article XV thereof. In deciding this point, it should be borne in mind that a constitutional provision must be presumed to have been framed and adopted in the light and understanding of prior and existing laws and with reference to them. "Courts are bound to presume that the people adopting a constitution are familiar with the previous and existing laws upon the subjects to which its provisions relate, and upon which they express their judgment and opinion in its adoption." (Barry *vs.* Truax, 13 N. D., 181; 99 N. W., 769; 65 L. R. A., 762.)

It is not disputed that the location of the mining claim under consideration was perfected prior to November 15, 1935, when the Government of the Commonwealth was inaugurated; and according to the laws existing at that time, as construed and applied by this court in McDaniel *vs.* Apacible and Cuisia (42 Phil., 749), a valid location of a mining claim segregated the area from the public domain. Said the court in that case: "The moment the locator discovered a valuable mineral deposit on the lands located, and perfected his location in accordance with law, the power of the United States Government to deprive him of the exclusive right to the possession and enjoyment of the located claim was gone, the lands had become mineral lands and they were exempted from lands that could be granted to any other person. The reservations of public lands cannot be made so as to include prior mineral perfected locations; and, of course, if a valid mining location is made upon public lands afterward included in a reservation, such inclusion or reservation does not affect the validity of the former location. By such location and perfection, the land located is segregated from the public domain even as against the Government. (Union Oil Co. *vs.* Smith, 249 U. S., 337; Van Ness *vs.* Rooney, 160 Cal., 131; 27 Cyc., 546.)"

The legal effect of a valid location of a mining claim is not only to segregate the area from the public domain, but to grant to the locator the beneficial ownership of the claim and the right to a patent therefor upon compliance with the terms and conditions prescribed by law. "Where there is a valid location of a mining claim, the area becomes segregated from the public domain and the property of the locator." (St. Louis Mining & Milling Co. *vs.* Montana Mining Co., 171 U. S., 650, 655; 43 Law. ed., 320, 322.) "When a location of a mining claim is perfected it has the effect of a grant by the United States of the right of present and exclusive possession, with the right to the exclusive enjoyment of all the surface ground as well as of all the minerals within the lines of the claim, except as limited by the extralateral rights of adjoining locators; and this is the locator's right before as well as after the issuance of the patent. While a lode locator acquires a vested property right by virtue of his location, made in compliance with the mining laws, the fee remains in the government until patent issues" (18 R. C. L., 1152.) In Noyes *vs.* Mantle (127 U. S., 348, 351; 32 Law. ed., 168, 170), the court said:

"There is no pretense in this case that the original locators did not comply-with all the requirements of the 1aw in making the location of the Pay Streak Lode Mining claim, or that the claim was ever abandoned or forfeited. They were the discoverers of the claim. They marked its boundaries by stakes, so that they could be readily traced. They posted the required notice, which was duly recorded in compliance with the regulations of the district. They had thus done all that was necessary under the law for the acquisition of an exclusive right to the possession and enjoyment of the ground. The claim was thenceforth their property. They needed only a patent of the United States to render their title perfect, and that they could obtain at any time upon proof what they had done in locating the claim, and of subsequent expenditures to a specified amount in developing it. Until the patent issued the government held the title in trust for the locators or their vendees. The ground itself was not afterwards open to sale."

In a recent case decided by the Supreme Court of the United States, it was said:

"The rule is established by innumerable decisions of this court, and of state and lower Federal courts, that when the location of a mining claim is perfected under the law, it has the effect of a grant by the United States of the right of present and exclusive possession. The claim is property in the fullest sense of that term; and may be sold, transferred, mortgaged, and inherited without infringing any right or title of the United States. The right of the owner is taxable by the state; and is 'real property,' subject to the lien of a judgment recovered against the owner in a state or territorial court. (Belk *vs.* Neagher, 104 U. S., 279, 283; 26 L. ed., 735, 737; 1 Mor. Min. Rep., 510; Manuel *vs.* Wulff, 152 U. S., 505, 510, 511; 38 L. ed., 532-534; 14, Sup. Ct. Rep., 651; 18 Mor. Min. Rep., 85; Elder *vs.* Wood, 208 U. S., 226, [317] 232; 52 L. ed., 464, 466; 28 Sup. Ct. Rep., 263; Bradford *vs.* Morrison, 212 U. S., 389; 53 L. ed., 564; 29 Sup. Ct. Rep., 349.) The owner is not required to purchase the claim or secure patent from the United States; but so long as he complies with the provisions of the mining laws, his possessory right, for all practical purposes of ownership, is as good as though secured by patent." (Wilbur *vs.* United States *ex rel*. Krushnic, 280 U. S., 306; 74 Law. ed., 445.)

The Solicitor-General admits in his memorandum that the decision in the McDaniel case is determinative, of the fundamental question involved in the instant case. But he maintains "that this decision is based on a misapprehension of the authorities on which the court relied," and that it "is not well founded and should be abandoned." We do not deem it necessary to belabor this point. Whether well-founded or not, the decision in that case was the law when section 1 of Article XII of the Constitution became effective; and even if we were disposed to overrule that decision now, our action could not affect rights already fixed under it.

Our conclusion is that, as the mining claim under consideration no longer formed part of the public domain when the provisions of Article XII of the Constitution became effective, it does not come within the prohibition against the alienation of natural resources; and the petitioner has the right to a patent therefor upon compliance with the terms and conditions prescribed by law.

It remains to consider whether mandamus is the proper remedy in this case. In Wilbur *vs.* United States *ex rel*. Krushnic, *supra*, the Supreme Court of the United States held that "mandamus will lie to compel the Secretary of the Interior to dispose of an application for a patent for a mining claim on its merits, where his refusal to do so is based on his misinterpretation of a statute." In the course of its decision the court said: "While the decisions of this court exhibit a reluctance to direct a writ of mandamus against an executive officer, they recognize the duty to do so by settled principles of law in some cases. (Lane *vs.* Hoglund, 244 U. S., 174, 181; 61 L. ed., 1066, 1069; 37 Sup. Ct. Rep., 552; and case cited.) In Roberts *vs.* United States (176 U. S., 221, 231; 44 L. ed., 443, 447; 20 Sup. Ct. Rep., 376), referred to and quoted in the Hoglund case, this court said:

" 'Every statute to some extent requires construction by the public officer whose duties may be defined therein. Such officer must read the law, and he must therefore, in a certain sense, construe it, in order to form a judgment from its language what duty he is directed by the statute to perform. But that does not necessarily and in all cases make the duty of the officer anything other than a purely ministerial one. If the law direct him to perform an act in regard to which no discretion is committed to him, and which, upon the facts existing, he is bound to perform, then that act is ministerial, although depending upon a statute which requires, in some degree a construction of its language by the officer. Unless this be so, the value of this writ is very greatly impaired. Every executive officer whose duty is plainly devolved upon him by a statute might refuse to perform it, and when his refusal is brought before the court he might successfully plead that the performance of the duty involved the construction of a statute by him, and therefore it was not ministerial, and the court would on that account be powerless to give relief. Such a limitation of the powers of the court, we think, would be most unfortunate, as it would relieve from judicial supervision all executive officers in the performance of their duties, whenever they should plead that the duty required of them arose upon the construction of a statute, no matter how plain its language, nor how plainly they violated their duty in refusing to perform the act required.' "

In the instant case, we are not justified, upon the state of the pleadings, to grant the relief sought by the petitioner. Considering, however, that the refusal of the respondents to act on the application for a patent on its merits was due to their misinterpretation of certain constitutional and statutory provisions, following the precedent established by the Supreme Court of the United States in Wilbur *vs.* United States *ex rel*. Krushnic, *supra*, a writ of mandamus should issue directing the respondents to dispose of the application for patent on its merits, unaffected by the prohibition against the alienation of natural resources contained in section 1 of Article XII of the Constitution and in Commonwealth Act No. 137. So ordered.[47]

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[47] Id. at 262-269.

The foregoing rulings were applied and cited in *Salacot Mining Company v. Rodriguez,*[48] *Republic v. Court of Appeals*[49] and *Atok-Big Wedge Mining Co., Inc. v. Court of Appeals*.[50]

Here, the records show that TCT Nos. 93, 94, 95, 96, 97 and 98 involved six parcels of land with an area of 248.342 hectares situated in Barrio Larap and Santa Elena, Municipality of Jose Panganiban, Camarines Norte.[51] The TCTs were transferred to the MBC and PCIB after PIMI's properties were sold in the foreclosure sale conducted on December 20, 1975.[52] Consequently, new TCTs, namely: TCT Nos. 14565, 14566, 14567, 14568, 14569 and 14570, were issued to MBC and PCIB cancelling TCT Nos. 93, 94, 95, 96, 97 and 98.[53] MBC and BDO, as registered owners of said lands, subsequently sold the same to Yinlu by virtue of a *Deed of Absolute Sale*.[54] Hence, TCT Nos. 72336, 72337, 72338, 72339, 72340 and 72341 were issued to Yinlu as the new registered owner.[55]

It also appears that TCT Nos. 94, 95, 96 and 97 covered mining lands with an aggregate area of 192 hectares. The lands were originally registered in 1925, and the TCTs were issued to PIMI in 1930. These TCTs of PIMI corresponded to more than half of the areas involved in Trans-Asia's MPSA. However, the TCTs of PIMI constituted mining patents and mining claims of the lands they covered. TCT No. 94 was issued pursuant to Patent No. 15 under the *Busser* Placer Claim; TCT No. 95, Patent No. 16 under the *Superior* Placer Claim; TCT No. 96, Patent No. 17 under the *Bussemer* Placer Claim; and TCT No. 97, Patent No. 18 under the *Rescue* Placer Claim.[56] Considering that these TCTs were validly transferred to Yinlu by virtue of the deed of absolute sale, and with the consequent issuance of TCT Nos. 72336, 72337, 72338 and 72339 in its name, Yinlu was the owner and holder of the mining patents entitled not only to whatever was on the surface but also to the minerals found underneath the surface.

The lands and minerals covered by Yinlu's mining patents are private properties. The Government, whether through the DENR or the MGB, could not alienate or dispose of the lands or mineral through the MPSA granted to Trans-Asia or any other person or entity. Yinlu had the exclusive right to explore, develop and utilize the minerals therein, and it could legally transfer or assign such exclusive right. We uphold the rulings of the DENR Secretary and the OP to exclude the disputed areas that had been established to belong

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48 67 Phil. 97 (1939).
49 Nos. L-43938, L-44081, L-44092, April 15, 1988, 160 SCRA 228.
50 G.R. No. 88883, January 18, 1991, 193 SCRA 71.
51 *Rollo*, p. 124.
52 Id.
53 Id.
54 Id. at 215-217.
55 Id. at 124 and 460-516.
56 Id. at 124, 127-128 and 460-516.

exclusively to Yinlu as registered owner to be taken out of the coverage of Trans-Asia's MPSA.

Still, Trans-Asia insists that Yinlu's mining patents should no longer be recognized because they were not registered pursuant to Section 100 and Section 101 of PD No. 463, which read:

> Section 100. *Old Valid Mining Rights May Come Under This Decree*. Holders of valid and subsisting mining locations and other rights under other laws, irrespective of the areas covered, may avail of the rights and privileges granted under this Decree by making the necessary application therefor and approval thereof by the Director within a period of two (2) years from the date of approval of this Decree.
>
> Section 101. *Recognition and Survey of Old Subsisting Mining Claims*. All mining grants patents, locations, leases and permits subsisting at the time of the approval of this Decree shall be recognized if registered pursuant to Section 100 hereof: Provided, That Spanish Royal Grants and unpatented mining claims located and registered under the Act of the United States Congress of July 1, 1902, as amended, otherwise known as the "Philippine Bill", as shall be surveyed within one (1) year from the approval of this Decree: Provided, further, That no such mining rights shall be recognized if there is failure to comply with the fundamental requirements of the respective grants: And provided, finally, That such grants, patents, locations, leases or permits as may be recognized by the Director after proper investigation shall comply with the applicable provisions of this Decree, more particularly with the annual work obligations, submittal of reports, fiscal provisions and other obligations.

Trans-Asia submits that because MBC/BDO did not comply with the requirement for the registration of the patents, Yinlu's mining rights should now be deemed abandoned because no title or right was passed to it. In that sense, Trans-Asia maintains that Yinlu had no vested right.

We disagree with Trans-Asia.

Although Section 100 and Section 101 of PD No. 463 require registration and annual work obligations, Section 99 of PD No. 463 nevertheless expressly provides that the provisions of PD No. 463 shall not apply if their application will impair vested rights under other mining laws, *viz*:

> Section 99. *Non-impairment of Vested or Acquired Substantive Rights*. Changes made and new provisions and rules laid down by this Decree which may prejudice or impair vested or acquired rights in accordance with order mining laws previously in force shall have no retroactive effect. Provided, That the provisions of this Decree which are procedural in nature shall prevail.

The concept of a vested right was discussed and applied in *Ayog v. Cusi Jr.*[57] Therein, the Director of Lands awarded on January 21, 1953 to Biñan Development Co, Inc. (BDCI) a parcel of land on the basis of its 1951 Sales Application. BDCI filed an ejectment suit against the occupants of the land who had refused to vacate. In its judgment, the trial court ordered the occupants to vacate the land. The judgment was affirmed by the Court of Appeals and by this Court. BDCI then moved for the execution of the trial court's judgment, but the occupants opposed on the ground that the adoption of the 1973 Constitution, which took effect on January 17, 1973, was a supervening event that rendered it legally impossible to execute the trial court's judgment. They invoked the constitutional prohibition that *"no private corporation or association may hold alienable lands of the public domain except by lease not to exceed one thousand hectares in the area."* The Court rejected the invocation, and ruled that BDCI had a vested right in the land, to wit:

> We hold that the said constitutional prohibition has no retroactive application to the sales application of Biñan Development Co., Inc. because it already acquired a vested right to the land applied for at the time the 1973 Constitution took effect.
>
> That vested right has to be respected. It could not be abrogated by the new Constitution. Section 2, Article XIII of the 1935 Constitution allows private corporation to purchase public lands not exceeding one thousand and twenty-four hectares. Petitioners' prohibition action is barred by the doctrine of vested rights in constitutional law.
>
> A right is vested when the right to enjoyment has become the property of some particular person or persons as a present interest.' (16 C.J.S. 1173). It is "the privilege to enjoy property legally vested, to enforce contracts, and enjoy the rights of property conferred by existing law" (12 C.J. 955, Note 46, No. 6) or "some right or interest in property which has become fixed and established and is no longer open to doubt or controversy" (Downs vs. Blount, 170 Fed. 15, 20, cited in Balboa vs. Farrales, 51 Phil. 498, 502).
>
> The due process clause prohibits the annihilation of vested rights. 'A state may not impair vested rights by legislative enactment, by the enactment or by the subsequent repeal of a municipal ordinance, or by a change in the constitution of the State, except in a legitimate exercise of the police power' (16 C.J.S. 1177-78).
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> It has been observed that, generally, the term "vested right" expresses the concept of present fixed interest, which in right reason and natural justice should be protected against arbitrary State action, or an innately just an imperative right which an enlightened free society,

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[57] No. L-46729, November 19, 1982, 118 SCRA 492.

> sensitive to inherent and irrefragable individual rights, cannot deny (16 C.J.S. 1174, Note 71, No. 5, citing Pennsylvania Greyhound Lines, Inc. vs. Rosenthal, 192 Atl. 2nd 587).[58]

In *Republic v. Court of Appeals*,[59] we stated that mining rights acquired under the Philippine Bill of 1902 and prior to the effectivity of the 1935 Constitution were vested rights that could not be impaired even by the Government. Indeed, the mining patents of Yinlu were issued pursuant to the Philippine Bill of 1902 and were subsisting prior to the effectivity of the 1935 Constitution. Consequently, Yinlu and its predecessors-in-interest had acquired vested rights in the disputed mineral lands that could not and should not be impaired even in light of their past failure to comply with the requirement of registration and annual work obligations.

Relevantly, we advert to the DENR's finding that PIMI's failure to register the patents in 1974 pursuant to PD No. 463 was excusable because of its suffering financial losses at that time, which eventually led to the foreclosure of the mortgages on its assets by the MBC and PCIB as its creditors.[60] The failure of Yinlu's predecessors-in-interest to register and perform annual work obligations did not automatically mean that they had already abandoned their mining rights, and that such rights had already lapsed. For one, the DENR itself declared that it had not issued any specific order cancelling the mining patents.[61] Also, the tenets of due process required that Yinlu and its predecessors-in-interest be given written notice of their non-compliance with PD No. 463 and the ample opportunity to comply. If they still failed to comply despite such notice and opportunity, then written notice must further be given informing them of the cancellation of their mining patents. In the absence of any showing that the DENR had provided the written notice and opportunity to Yinlu and its predecessors-in-interest to that effect, it would really be inequitable to consider them to have abandoned their patents, or to consider the patents as having lapsed. Verily, as held in *McDaniel* and *Gold Creek*, *supra*, a mining patent obtained under the Philippine Bill of 1902 was a protected private property. The protection should be basic and guaranteed, for no less than Section 1, Article III of the 1987 Constitution decrees that no person shall be deprived of property without due process of law.

Nonetheless, we deem it significant to remind that Yinlu has been directed by the DENR to henceforth conduct its mining operations in accordance with Republic Act No. 7942 (Philippine Mining Act of 1995) and its implementing rules and regulations.

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58 Id. at 498-499.
59 Supra note 49, at 233 and 239-240.
60 *Rollo*, p. 128.
61 Id.

WHEREFORE, we **REVERSE** and **SET ASIDE** the decision promulgated on October 30, 2012 by the Court of Appeals; **REINSTATE** the decision issued on May 4, 2010 and resolutions dated June 29, 2010 and March 31, 2011 by the Office of the President in O.P. Case No. 09-L-638; and **DIRECT** the respondents to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice