

[MGB RESOLUTION, May 22, 1997]

RULES ON PLEADING, PRACTICE AND PROCEDURE BEFORE THE PANEL OF ARBITRATORS AND MINES ADJUDICATION BOARD

Whereas, with the passage of the Philippine Mining Act of 1995 (R.A. 7942) and its Implementing Rules and Regulations (IRR), the influx of mining cases/conflict have grown into a great proportion:

Whereas, the Panel of Arbitrators and the Members of the Mines Adjudication Board found it rather difficult to address technical matters which call for a basis of its rulings in the absence of a procedural rules in the hearings, submission of pleadings, documents and evidences;

Whereas, the Mines Adjudication Board, in order to address the problem prepared the final draft of the Rules on Pleading, Practice and Procedure before the Panel of Arbitrators and the Mines Adjudication Board;

Be it Resolved, therefore, as it is hereby resolved by the Mines Adjudication Board, after its due deliberation, that the Rules on Pleading, Practice and Procedure before the Panel of Arbitrators and the Mines Adjudication Board be approved.

Resolved, further, that a signed copy of the said Rules on Pleading, Practice and Procedure before the Panel of Arbitrators and the Mines Adjudication Board be published once a week for two consecutive weeks in a newspaper of general circulation.

Adopted: 22 May 1997

(SGD.) VICTOR O. RAMOS
Chairman

(SGD.) VIRGILIO Q. MARCELO
(SGD.) HORACIO C. RAMOS
Members

Attested:

(SGD.) ADORACION M. MENDOZA
Chief-MAB-Secretariat

RULES ON PLEADING, PRACTICE AND PROCEDURE Before the PANEL OF ARBITRATORS and the MINES ADJUDICATION BOARD

The Mines Adjudication Board, pursuant to its powers and functions under Section 79 of Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995

(the "Act") and Sections 202 and 207 of Department Administrative Order No. 96-40: the Revised Implementing Rules and Regulations of the Act (the "IRR"), RESOLVES to promulgate and adopt the following Rules on Pleading, Practice and Procedure in the adjudication of mining cases.

RULE I TITLE AND CONSTRUCTION

Section 1. Title of the Rules. These rules shall be known as the Rules on Pleading, Practice and Procedure before the Panel of Arbitrators and the Mines Adjudication Board.

Section 2. Applicability of the Rules. These Rules shall apply to all mining cases as delineated under Section 77 of the Act and Section 202 of the IRR.

Section 3. Construction of the Rules. These Rules shall be liberally construed in order to promote the public interest and to assist the parties in obtaining just, speedy and inexpensive disposition of mining cases.

Section 4. Nature of the Proceedings. Subject to the basic requirements of due process, processing before the Panel of Arbitrators and the Mines Adjudication Board shall be summary in nature. The technical rules on evidence obtaining in courts of law shall not be binding upon the same. In the absence of any applicable provision in these Rules and in order to effectuate the objectives of the Mining Act, the pertinent provisions of the Rules of Court may, in the interest of expeditious justice and only whenever practical and convenient, be applied by analogy or in a suppletory manner. Representation of a party in mining cases by legal counsel shall be optional.

RULE II DEFINITION OF TERMS

Section 1. Definition of Terms. As used in these Rules:

- a) "*Board*" refers to the Mines Adjudication Board created pursuant to Section 79 of the Act and Section 207 of the IRR;
- b) "*Bureau*" refers to the Mines and Geosciences Bureau ;
- c) "*Department*" or "*DENR*" refers to the Department of Environment and Natural Resources;
- d) "*Director*" refers to the Director of the Bureau;
- e) "*Panel*" refers to any of the regional Panels of Arbitrators created pursuant to Section 77 of the Act and Section 201 of the IRR;
- f) "*Secretariat*" means the administrative support staff of the Board created pursuant to Section 208 of the IRR, and
- g) "*Secretary*" refers to the Secretary of the Department.

The other terms and phrases defined in Section 3 of the Act and Section 5 of the IRR shall be given the same meanings when used herein, unless the context or intent clearly indicates otherwise.

RULE III PROCEEDINGS BEFORE THE PANEL

Section 1. Composition. There shall be a Panel of Arbitrators in the Legal Staff of the Regional Office of the MGB composed of three (3) members, two (2) of whom

must be members of the Philippine Bar in good standing and one (1) licensed Mining Engineer, Geologist or a professional in related fields, all duly designated by the Secretary as recommended by the Director. Those designated as members of the Panel shall serve as such in addition to their work in the Department without additional compensation. The Regional Office shall provide administrative support and structure to the Panel.

As far as practicable, the members of the Panel shall come from the different bureaus of the Department in the region the presiding officer thereof shall be selected by the drawing of lots. His/her tenure as presiding officer shall be on a yearly basis. The members of the Panel shall perform their duties and obligations in hearing and deciding cases until their designation is withdrawn or revoked by the Secretary.

Section 2. Jurisdiction. The Panel of Arbitrators shall have exclusive and original jurisdiction to hear and decide on the following:

- a) Disputes involving rights to mining areas ;
- b) Disputes involving mining permits, mineral agreements, financial or technical assistance agreement.
- c) Disputes involving surface owners, occupants, and claimholders/concessionaires; and
- d) Disputes pending before the Regional Office and the Department at the date of the effectivity of the Act: *Provided*, That appealed cases before the Department shall be under the jurisdiction of the Board.

The litigation and disposition of cases before the Panel shall be governed by these Rules; *Provided*, that cases pending before the different Panels at the date of effectivity of these Rules may proceed in accordance with the rules individually promulgated thereby; *Provided, further*, that these Rules shall govern subsequent appeals from such cases, if any.

Section 3. Venue. All cases which the Panel has authority to hear and decide may be filed in the Regional Office of the Bureau having jurisdiction over the area subject of the case.

Where two or more regional Panels have administrative jurisdiction over the area subject of a mining dispute, the Panel of the Regional Office where the disputed agreement or permit was filed, processed and/or issued shall acquire jurisdiction over the case to the exclusion of all others.

When improper venue is not objected to before or at the time of the filing of appropriate pleadings, such question shall be deemed waived. In the absence or in-operation of a Panel in a Region, the Panel in the region nearest to the area of conflict shall acquire jurisdiction over a case.

Section 4. Quorum and Vote. The presence of a majority of the Panel members shall be necessary to constitute a quorum to deliberate on and decide any matter before it. The vote or concurrence of majority of the Panel members shall be required for the adoption of a decision or resolution by the Board.

Section 5. Parties. Any person who has an interest in the subject of the action may be a party to a case or proceeding before the Panel. Depending on the nature of the action, the party initiating the same shall be called the Complainant,

Petitioner, Oppositor or Protester, while the party against whom the action is commenced shall be called the Respondent or Protestee.

The full names of all the real parties in interest, whether natural or juridical persons or entities authorized by law, shall be stated in the caption of the complaint or petition as well as in the decisions, awards or judgments.

A party having more than one cause of action against the other party, arising out of the same relationship, shall join all of them in one complaint or petition.

Section 6. When Action is Deemed Commenced. An action is deemed commenced upon the filing of an adverse claim, protest or opposition.

- a) directly with the Panel;
- b) with the concerned Regional Office for endorsement and transmittal to the appropriate Panel; or
- c) with any concerned Provincial Environment and Natural Resources Office (PENRO) or Community Environment and Natural Resources Office (CENRO) of the Department for referral to the concerned Regional Office for the endorsement and transmittal to the appropriate Panel.

Section 7. Form and Contents of Adverse Claim, Protest or Opposition. No adverse claim, petition, protest or opposition involving mining rights shall be accepted for filing unless verified and accompanied by the prescribed docket fee and proof of service to the respondent(s), either personally or by registered mail, *Provided*, That the requirement for the payment of docket fees shall not be imposed on pauper litigants.

Likewise, no adverse claim, protest or opposition shall be entertained unless it contains a detailed statement in clear and concise language, whether in Filipino or English, of the ultimate facts relied upon, the grounds therefor, and an exhaustive discussion of the issues and arguments raised and the remedy or relief sought together with all supporting plans, documents, data and other documentary evidence and affidavits of all witnesses.

Section 8. Docket Number and Calendar of Cases. All cases filed before the Panel shall be numbered and docketed consecutively and entered into an appropriate docket book in accordance with a system of numbering and docketing of cases adopted by the Panel or Regional Office.

Section 9. Disposition of Cases. As far as practicable, the members of the Panel shall have equivalent case loads as assigned to the Presiding Officer. When a case is assigned to the Presiding Officer or either of the members, the entire case and any or all incidents thereto shall be considered assigned to him.

Section 10. Issuance of Summons. Immediately after receipt of an adverse claim, petition, protest or opposition, the Panel shall issue the required notification and summons, attaching thereto a copy of the adverse claim, protest or opposition.

Section 11. Filing and Service of Pleadings. All pleadings in connection with the case shall be filed with the appropriate docketing unit of the Panel. Copies of subsequent pleadings shall be furnished by the party filing the same to the opposing party or parties in a manner provided for in these Rules with proof of service thereof.

Section 12. Service of Notices and Resolutions. Notices or summons and copies of orders, resolutions or decisions shall be served on the parties to the case personally by the bailiff or duly authorized public officer within three (3) days from receipt thereof or by registered mail; *provided*, that where a party is represented by counsel or authorized representative, service shall be made on such counsel or authorized representative. The bailiff serving the notice, order, resolution or decision shall submit his return within two (2) days from date of service thereof, stating legibly in his return his name, the names of the persons served and the date of receipt, which return shall immediately be attached and shall form part of the records of the case. If no service was effected, the serving officer shall state the reason therefor in the return.

The return is prima facie proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent; but if the addressee fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take after such time.

For purposes of computing the period of appeal, the same shall be counted from receipt of such decision, award or order by the counsel of record.

Section 13. Appearances Authority to Bind Party. An attorney appearing for a party is presumed to be properly authorized for that purpose. Appearance may be made orally or in writing. In both cases, the complete name and office address of both parties shall be made of record. The Panel shall be formally notified in writing of any change in the address of counsel or representative.

Attorneys and other representatives of parties shall have authority to bind their clients in all matters of procedure but they cannot, without a special power of attorney, enter into a compromise agreement with the opposing party in full or partial discharge of a party's claim.

Section 14. Consolidation of Cases. When there are two or more cases pending before different Panels from different regions involving the same parties, the subsequent case or cases shall, as far as practicable, be consolidated with the first to avoid unnecessary costs or delay. Such consolidated cases shall be disposed of by the Panel to whom the first case was assigned. In case of objection to the consolidation, the same shall be summarily resolved by the Presiding Officer of said Panel.

Section 15. Mandatory Conference/Conciliation. Within seven (7) days from receipt of a case, 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 admission and/or stipulations of facts and threshing out all other preliminary matters. The notice or summons shall specify the date, time and place of the preliminary conference/pre-trial and shall be accompanied by a copy of the complaint.

Should the parties arrive at any agreement as to the whole or any part of the dispute, the same shall be reduced to writing and signed by the parties and their respective counsels, if any, before the Panel. The settlement shall be approved by the Panel after being satisfied that it was voluntarily entered into by the parties and after having explained to them the terms and consequences thereof.