

## THIRD DIVISION

[ G.R. No. 237172, September 18, 2019 ]

**MARIO JOEL T. REYES,<sup>[1]</sup> PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**LEONEN, J.:**

The approval of small scale mining permits is a discretionary act of provincial governors. A provincial governor is considered to have been grossly and inexcusably negligent in renewing a small scale mining permit despite knowing that the extraction limits have already been exhausted by the applicant mining company.

Likewise, the grant of bail after a judgment of conviction is discretionary upon the courts. Bail may be denied if the courts find any of the circumstances present in Rule 114, Section 5 of the Rules of Court.<sup>[2]</sup>

This Court resolves a Petition for Review on Certiorari<sup>[3]</sup> filed by Mario Joel T. Reyes (Reyes), then Governor of Palawan, assailing the Decision<sup>[4]</sup> and Resolution<sup>[5]</sup> of the Sandiganbayan, which found him guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act, when he renewed the small scale mining permit of a mining company despite it violating the terms and conditions of its previous permit. In an Urgent Motion to Review Resolution Revoking Bail, he also assails the Sandiganbayan Resolution<sup>[6]</sup> revoking his bail due to previous violations of the conditions of bail and for possibility of flight.

Olympic Mines and Development Corporation (Olympic Mines) is a grantee of mining lease contracts in Narra and Española, Palawan.<sup>[7]</sup>

On July 18, 2003, the company entered into a 25-year Operating Agreement, under which it granted Platinum Group Metal Corporation (Platinum Group) exclusive privilege to control, possess, manage or operate, and conduct mining operations within the Toronto Nickel Mine in Narra and Pulot Nickel Mine in Española. Olympic Mines "also authorized Platinum Group to market or dispose minerals and mineral products obtained from the areas."<sup>[8]</sup>

On January 21, 2004, Olympic Mines and Platinum Group separately applied for small scale mining permits before the Provincial Mining Regulatory Board.<sup>[9]</sup>

The two (2) applications were approved by Reyes, then the Palawan Governor. He issued SSMP PLW No. 37 for a 19,800-hectare property in San Isidro, Narra, Palawan in favor of Olympic Mines. Under the permit, which was valid from November 4, 2004 to November 3, 2006, Olympic Mines was allowed to extract

50,000 dry metric tons of laterite ore.<sup>[10]</sup> Within the same duration, Platinum Group was similarly allowed, under SSMP PLW No. 39, to extract 50,000 dry metric tons of laterite ore in San Isidro, Narra and in Pulot, Española.<sup>[11]</sup>

On October 22, 2004, the Department of Environment and Natural Resources issued Olympic Mines' and Platinum Group's Environmental Compliance Certificates, which imposed a limit of 50,000 dry metric tons of nickel/ore mineral to be extracted per year.<sup>[12]</sup>

From May 30, 2005 to April 3, 2006, Platinum Group transported, for itself and on behalf of Olympic Mines, a total of 203,399.135 dry metric tons of nickel ore extracted under their permits.<sup>[13]</sup>

On March 10, 2006, Olympic Mines applied for the renewal of SSMP PLW No. 37 before the Provincial Mining Regulatory Board. At the time of its application, Olympic Mines had already exhausted its 50,000-dry metric ton limit under SSMP PLW No. 37 and its 100,000-dry metric ton limit under its Environmental Compliance Certificates.<sup>[14]</sup>

In Resolution No. 024-2006, the Provincial Mining Regulatory Board unanimously recommended to then Governor Reyes that the application be approved.<sup>[15]</sup>

On April 6, 2006, then Governor Reyes issued SSMP PLW No. 37.1, valid from April 6, 2006 to April 5, 2008, granting Olympic Mines the right to extract 50,000 dry metric tons of laterite ore per year within the same area covered by SSMP PLW No. 37.<sup>[16]</sup>

From June 2, 2006 to July 31, 2006, Platinum Group transported, on behalf of Olympic Mines and on its own behalf, 79,330 dry metric tons of nickel ore under SSMP PLW No. 37.1 and SSMP PLW No. 39.1.<sup>[17]</sup>

In a September 25, 2006 Order, then Environment and Natural Resources Secretary Angelo Reyes, acting on Citinickel Mines' complaint, cancelled Olympic Mines' Environmental Compliance Certificates for over-extraction of minerals.<sup>[18]</sup>

On appeal, the Office of the President reversed this Order and reinstated the cancelled Environmental Compliance Certificates on the following grounds: (1) Republic Act No. 7076<sup>[19]</sup> has already repealed the limit of 50,000 dry metric tons on ore extraction; (2) the condition in the Environment Compliance Certificates referred to nickel and not nickel ore; and (3) there was no proof on the amount of nickel extracted from the nickel ore.<sup>[20]</sup>

Reyes and Andronico J. Baguyo (Baguyo), Head of the Provincial Mining Regulatory Board, however, were charged with violation of Section 3(e) of Republic Act No. 3019 when they allegedly gave unwarranted benefits, preference, and advantage to Olympic Mines in the renewal of its Small Scale Mining Permit.<sup>[21]</sup> The Information against them read:

That on or about April 6, 2006, or sometime prior or subsequent thereto, in Puerto Princesa City, Palawan, and within the jurisdiction of this

Honorable Court, accused JOEL T. REYES, a high ranking public officer being Governor of the Province of Palawan and accused ANDRONICO J. BAGUYO, Mining Operations Officer IV, Provincial Environment and Natural Resources Office and concurrent Head of the Provincial Mining Regulatory Board (PMRB) Technical Secretariat, taking advantage of their respective positions and committing the offense in relation to office, conspiring and confederating with each other, did then and there willfully, knowingly and criminally, with manifest partiality, evident bad faith or, at the very least, gross and inexcusable negligence, grant and issue Small Scale Mining Permit Number SSMP PLW No. 37-1 to Olympic Mines and Development Corporation (OMDC) for a period of April 6, 2006 to April 5, 2008 as renewal of its previous mining permit (SSMP PLW No. 37) despite the fact that said previous mining permit is valid and subsisting up to November 3, 2006 and even as said OMDC already mined and extracted the annual maximum 50,000 dry metric tons (DMT) of ore set forth in its previous permit (or 100,000 DMT for the two-year period), allowing in the process OMDC to mine and extract ore in excess of the allowable limit; and despite OMDC's violations of its prior mining permit such as, but not limited to: (1) over-extraction of ore and (2) the use of heavy equipment in its mining operations which is prohibited by Republic Act 7076 and Presidential Decree 1899, as amended, thereby giving unwarranted benefits, preference and advantage to OMDC. to the damage and prejudice of the government and People of Palawan.

CONTRARY TO LAW.<sup>[22]</sup> (Citation omitted)

Upon arraignment, Reyes and Baguyo pleaded not guilty to the charge.<sup>[23]</sup> Trial on the merits then ensued.

As his defense, Reyes contended that there was no criminal intent or negligence on his part since he signed and approved SSMP PLW No. 37.1 based on the favorable recommendation of the Provincial Mining Regulatory Board. He also argued that over-extraction of nickel could not have been proven through Olympic Mines' Ore Transport Permits since these only showed the transport of the minerals. Moreover, he pointed out that the volume in the permits referred to the combined volume of ore extracted by Olympic Mines and Platinum Group.<sup>[24]</sup>

On August 29, 2017, the Sandiganbayan rendered its Decision<sup>[25]</sup> finding Reyes guilty of violation of Republic Act No. 3019, Section 3(e).<sup>[26]</sup> Baguyo, however, was acquitted. The dispositive portion of the Decision read:

WHEREFORE, accused JOEL TOLENTINO REYES is found GUILTY beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019, and is sentenced to an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to eight (8) years, as maximum, with perpetual disqualification from holding public office.

Accused ANDRONICO JARA BAGUYO is ACQUITTED of the crime charged for failure of the prosecution to establish his guilt beyond reasonable doubt.

SO ORDERED.<sup>[27]</sup>

According to the Sandiganbayan, there was no manifest partiality since the renewal of SSMP PLW No. 37 was not shown to have been granted to favor Olympic Mines alone and no other mining company.<sup>[28]</sup> It also found no evident bad faith since the applicable laws did not expressly prohibit the renewal of small scale mining permits before they expired.<sup>[29]</sup>

The Sandiganbayan, however, found that there was gross inexcusable negligence when Reyes renewed SSMP PLW No. 37.1 during the validity of SSMP PLW No. 37. Citing *SR Metals, Inc. v. Reyes*,<sup>[30]</sup> it stated that the 50,000-dry metric ton limit under Presidential Decree No. 1899<sup>[31]</sup> was not repealed by Republic Act No. 7076. It explained that the annual production limit in Republic Act No. 7076 includes other materials lumped together with the sought-after material, while Presidential Decree No. 1899 refers to ore in its unprocessed form. The Sandiganbayan ruled that by renewing SSMP PLW No. 37 before it expired, Reyes allowed Olympic Mines to extract nickel ore after its privilege had been exhausted for the period. Reyes allowed Olympic Mines, through Platinum Group, to do an act which it would have been otherwise prohibited.<sup>[32]</sup>

The Sandiganbayan found no merit in Reyes' argument that he merely relied on the Provincial Mining Regulatory Board's recommendation, stating that "his authority to approve small mining permits calls for the dual role of allowing the exploration and exploitation of, and conserving and preserving the natural resources within the provinces' territorial jurisdiction."<sup>[33]</sup> It noted that the Board's recommendation was subject to certain conditions, and that Reyes failed to inquire if they had been met before approving the renewal.<sup>[34]</sup>

The Sandiganbayan likewise found that Reyes acted with gross inexcusable negligence when Olympic Mines' agent, Platinum Group, used heavy machinery in its operations. It noted that the use of sophisticated mining equipment was not allowed in small scale mining.<sup>[35]</sup>

Thus, through his gross inexcusable negligence, Reyes was found to have given Olympic Mines unwarranted benefits when he allowed it to extract nickel ore beyond the limits allowed by law, as well as when he failed to impose sanctions for the violation of the Small Scale Mining Permit's terms, which caused undue injury to the government.<sup>[36]</sup>

The Sandiganbayan acquitted Baguyo since his signature on SSMP PLW No. 37.1 appears to be a "Certified Machine Copy." It also found no indication that he participated in the preparation and issuance of the permit.<sup>[37]</sup>

Reyes filed a Motion for Reconsideration, which was denied by the Sandiganbayan in its January 25, 2018 Resolution.<sup>[38]</sup> Hence, he filed this Petition.<sup>[39]</sup>

Petitioner maintains that he relied in good faith on the recommendation of the Provincial Mining Regulatory Board, it being the specialized agency with the duty and technical expertise to evaluate small scale mining permit applications. He points

out that it is the Mines and Geosciences Bureau, not the provincial governor, which has the duty to ensure that the terms and conditions of small scale mining applications are complied with.<sup>[40]</sup>

Petitioner further argues that *SR Metals* should not have been given retroactive application when it is prejudicial to the accused. In any case, he points out that this Decision only shows that there has already been an issue as to how to interpret the 50,000-dry metric ton threshold. Therefore, he insists, there was reasonable doubt in his case.<sup>[41]</sup>

Petitioner likewise submits the Urgent Motion to Review the Revocation of Bail assailing the Sandiganbayan's January 17, 2018 Resolution,<sup>[42]</sup> which had revoked his bail. The Sandiganbayan cited that: (1) he violated the conditions of his bail without any justification after he had failed to appear before the Sandiganbayan despite a directive for him to do so; and (2) there was a probability of flight.<sup>[43]</sup>

The Sandiganbayan had previously granted petitioner bail in the amount of P60,000.00 on August 29, 2017, right after his conviction. Petitioner explains that this was distinct from the bail he posted on September 1, 2011 to stay the warrant of his arrest. He states that any violation of the conditions of his bail was prior to his conviction; thus, the bail he posted on September 1, 2011 was considered cancelled. He likewise argues that this violation was justified since he did not believe that he would be tried fairly if he stayed in the country.<sup>[44]</sup>

Petitioner argues that he was "vindicated"<sup>[45]</sup> when the Court of Appeals, in CA-G.R. SP. No. 132847, through Associate Justice Normandie Pizarro, found no probable cause to find him liable for the murder of radio personality Gerry Ortega and dismissed the case against him. He argues that there was no reason to revoke his bail in this case since the Court of Appeals had already dismissed the case against him, negating any possibility of flight. He points out that he even voluntarily surrendered when the Sandiganbayan issued its January 17, 2018 Resolution.<sup>[46]</sup>

Respondent People of the Philippines, through the Office of the Ombudsman, counters that all the elements of violation of Section 3(e) of Republic Act No. 3019 were sufficiently established by the prosecution. It points out that based on the evidence presented, Olympic Mines violated the terms and conditions of its Small Scale Mining Permit when Platinum Group extracted, on Olympic Mines' behalf, more than the 50,000-dry metric ton limit under the law. It contends that the Office of the Governor of Palawan, through petitioner, acted with gross inexcusable negligence in allowing the renewal of Olympic Mines and Platinum Group's Small Scale Mining Permit despite their blatant violations of law.<sup>[47]</sup>

Respondent likewise asserts that the Sandiganbayan did not commit grave abuse of discretion when it cancelled petitioner's bail. It states that petitioner had already been convicted, and that the Sandiganbayan cited two (2) grounds for the bail's cancellation: (a) when petitioner failed to appear in court despite a directive to do so; and (b) the probability of flight.<sup>[48]</sup>

Additionally, respondent submits that the Sandiganbayan's factual findings are conclusive on this Court since there was no grave abuse of discretion on its part