

FIRST DIVISION

[G.R. No. 206728, November 12, 2014]

APO CEMENT CORPORATION, PETITIONER, VS. MINGSON MINING INDUSTRIES CORPORATION, RESPONDENT.

R E S O L U T I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated June 13, 2012 and the Resolution^[3] dated April 23, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 100456 which affirmed the Decision^[4] dated July 31, 2007 of the Department of Environment and Natural Resources (DENR) Mines Adjudication Board (MAB) in MAB Case No. 02-96 (POA Case No. CEB-001).

The Facts

The instant case arose from a dispute involving the mining claims known as "Allied 1 and 2" and "Lapulapu 31 and 32" (subject mining claims) between petitioner Apo Cement Corporation (Apocemco) and respondent Mingson Mining Industries Corporation (Mingson).^[5]

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

On August 18, 1992^[8] and March 2, 1993,^[9] the DENR - Central Visayas, Region 7 Office (DENR Regional Office) declared the subject mining claims, among others, abandoned and open for location to other interested parties,^[10] prompting Luvimin to file an appeal.^[11]

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

The DENR Proceedings

In an Order^[13] dated March 1, 1995, the DENR Regional Office decreed that portions of the subject mining claims be awarded to Mingson, considering that said

claims have encroached its Yellow Eagle I to VII claims.

However, upon Apocemco's motion for reconsideration,^[14] the DENR Regional Office's Legal Division issued a Resolution^[15] dated September 5, 1995, recommending that the subject mining claims be awarded, instead, to Apocemco, subject, however, to the outcome of Luvimin's appeal. In an Order^[16] dated September 20, 1995, the DENR Regional Director affirmed the foregoing resolution, but subject to the review and concurrence of the Mines and Geosciences Bureau Region 7 - Panel of Arbitrators (POA), considering that pursuant to Section 218^[17] of DENR Department Administrative Order No. (DAO) 95-23, Series of 1995,^[18] the POA has been mandated to resolve, among others, disputes involving rights to mining areas.

In a Decision^[19] dated May 3, 1996, the POA upheld the September 5, 1995 Resolution and the September 20, 1995 Order, reiterating the findings therein made, without, however, requiring the parties to file any pleading or setting the matter for hearing.

Aggrieved, Mingson appealed^[20] the POA's Decision before the DENR MAB, averring that the said Decision was not supported by facts and the evidence on record, and that it was arbitrary and issued with grave abuse of authority.^[21] Subsequently, in Mingson's letter^[22] dated August 8, 1996, it claimed denial of due process.

In a Decision^[23] dated July 31, 2007, the DENR MAB granted Mingson's appeal and thereby reversed and set aside the POA's Decision. It found that the POA merely conducted a review of the case and Mingson, in particular, was not given an opportunity to be heard, which is repugnant to due process.^[24]

Dissatisfied, Apocemco elevated the matter to the CA.

The CA Ruling

In a Decision^[25] dated June 13, 2012, the CA dismissed Apocemco's appeal and sustained the DENR MAB's finding that Mingson was not afforded by the POA its right to due process, given that none of the applicable procedures found in DENR DAO 95-23 were followed.^[26] As an added ground for dismissal, the CA held that Apocemco failed to perfect its appeal in accordance with the Rules of Court, considering that the DENR MAB was not served a copy of its petition.^[27]

Unconvinced, Apocemco filed a motion for reconsideration^[28] which was, however, denied in a Resolution^[29] dated April 23, 2013, hence, the petition.

The Issue Before the Court

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

The Court's Ruling

The petition is devoid of merit.

Sections 223^[30] (on preliminary conference), 224^[31] (on hearing), and 227^[32] (on the proceedings before the POA), as well as Sections 221^[33] (on due course) and 222^[34] (on answers) of DENR DAO 95-23, or the Implementing Rules of the Philippine Mining Act of 1995,^[35] clearly require that the parties involved in mining disputes be given the opportunity to be heard. These rules – which were already in effect^[36] during the time the dispute between the parties arose – flesh out the core requirement of due process; thus, a stark and unjustified contravention of the same would oust the errant tribunal of its jurisdiction and, in effect, render its decision null and void. As explained in *PO2 Montoya v. Police Director Varilla*:^[37]

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

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

In this relation, the Court finds it apt to clarify that the DENR MAB did not err in taking cognizance of the due process issue. While such issue was not assigned as an error in Mingson's Appeal^[39] dated July 27, 1996, the same was squarely raised in Mingson's August 8, 1996 letter^[40] to the DENR MAB. Given the lack of any formal procedure on appeals at that time,^[41] the DENR MAB cannot be faulted for considering the letter and the issues raised therein as part of Mingson's appeal. It must be added that the DENR MAB is not a court of law but an administrative body; hence, it is not bound by strict rules of procedure and evidence, and is allowed to use all reasonable means to ascertain the facts of each case speedily and objectively without resort to technical rules,^[42] as in this case.

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

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