

## SPECIAL SECOND DIVISION

[ G.R. No. 178188, August 14, 2009 ]

**OLYMPIC MINES AND DEVELOPMENT CORP., PETITIONER, VS.  
PLATINUM GROUP METALS CORPORATION, RESPONDENT.**

**[G.R. NO. 180674]**

**CITINICKEL MINES AND DEVELOPMENT CORPORATION,  
PETITIONER, VS. HON. JUDGE BIENVENIDO C. BLANCAFLOR, IN  
HIS CAPACITY AS THE PRESIDING JUDGE OF THE REGIONAL  
TRIAL COURT OF PALAWAN, BRANCH 95, PUERTO PRINCESA  
CITY, PALAWAN, AND PLATINUM GROUP METALS  
CORPORATION, RESPONDENTS.**

**[G.R. NO. 181141]**

**PLATINUM GROUP METALS CORPORATION, PETITIONER, VS.  
CITINICKEL MINES AND DEVELOPMENT CORPORATION, ACTING  
FOR ITS OWN INTEREST AND ON BEHALF OF OLYMPIC MINES  
AND DEVELOPMENT CORPORATION, RESPONDENT.**

**[G.R. NO. 183527]**

**PLATINUM GROUP METALS CORPORATION, PETITIONER, VS.  
COURT OF APPEALS AND POLLY C. DY, RESPONDENTS.**

### R E S O L U T I O N

**BRION, J.:**

We resolve in this Resolution: (1) the motions for reconsideration of the Court's Decision of May 8, 2009 in these consolidated cases filed by Olympic Mines and Development Corporation (*Olympic*),<sup>[1]</sup> Citinickel Mines and Development Corporation (*Citinickel*),<sup>[2]</sup> and Polly Dy (*Dy*);<sup>[3]</sup> and (2) the motions to elevate the same cases to the Court *En Banc*.<sup>[4]</sup>

The dispositive of the Court's May 8, 2009 Decision declared:

WHEREFORE, premises considered, we rule as follows:

- a) in **G.R. No. 178188** (*Olympic Mines v. Platinum Group Metals Corporation*): Olympic's petition is denied for lack of merit and the assailed CA Decision in *CA-G.R. SP No. 97259* is **AFFIRMED**;

- b) in **G.R. No. 183527** (*Platinum Group Metals Corporation v. Court of Appeals*): The assailed CA Resolution in CA-G.R. SP No. 101544 is **REVERSED** and **SET ASIDE**;
- c) in **G.R. No. 180674** (*Citinickel Mines and Development Corporation v. Judge Bienvenido Blancaflor and Platinum Group Metals Corporation*): The questioned CA Decision in CA-G.R. SP No. 99422 is **AFFIRMED**; and
- d) in **G.R. No. 181141** (*Platinum Group Metals Corporation v. Citinickel Mines and Development Corporation*): The CA decision in CA-G.R. SP No. 97288 is **REVERSED** and **SET ASIDE**. The POA Resolution, having been issued in violation of a previously issued writ of preliminary injunction, is **ANNULLED** and **SET ASIDE**.

### **BACKGROUND FACTS**

In 1971 and 1980, Olympic was granted "Mining Lease Contracts" by the Secretary of the Department of Environment and Natural Resources (*DENR*) covering mining areas located in Palawan. With the passage of Republic Act No. 7942 or the Philippine Mining Act of 1995 (*Mining Act*),<sup>[5]</sup> these mining lease contracts became the subject of Mineral Production Sharing Agreement (*MPSA*) applications by Olympic.

**On July 18, 2003, Olympic entered into an *Operating Agreement* with the Platinum Group Metals Corporation (*Platinum*)**, under which Platinum was given the exclusive right to control, possess, manage/operate, and conduct mining operations, and to market or dispose mining products found in the Toronto Nickel Mine in the Municipality of Narra and in the Pulot Nickel Mine in the Municipality of Espanola (*subject mining areas*) for a period of twenty-five years. In return, Platinum bound itself to pay Olympic a royalty fee of 2½ of the gross revenues.

In 2006, Olympic made various attempts to terminate the Operating Agreement and to deprive Platinum of its rights and interests over the subject mining areas, alleging that Platinum committed gross violations of the Operating Agreement. These attempts included:

- a) sending Platinum a letter on April 24, 2006 to inform Platinum that it was terminating the Operating Agreement and demanding the immediate return of the possession of the subject mining areas;
- b) filing a complaint with a prayer for the issuance of an injunctive writ against Platinum on April 25, 2006 before the Regional Trial Court (*RTC*) of Puerto Princesa, Branch 52 (docketed as **Civil Case No. 4181**) to enjoin Platinum from conducting mining operations on the subject mining areas and to recover possession thereof;
- c) filing a letter with Governor Joel T. Reyes of Palawan on May 18, 2006 to inform the governor of the termination of the Operating Agreement

and to ask for the revocation of Platinum's Small Scale Mining Permits (SSMPs);

- d) sending another letter to Platinum on June 8, 2006 to inform Platinum that it would file legal actions for the alleged violations of the Operating Agreement; and
- e) filing two administrative cases<sup>[6]</sup> before different agencies of the DENR, both with the intent to terminate the Operating Agreement and to revoke Platinum's SSMPs.

During the pendency of the two administrative cases, Olympic transferred its MPSA applications (which necessarily included all its mining rights over the subject mining areas) to Citinickel *via* a **Deed of Assignment** dated June 9, 2006, without notice to or the consent of Platinum. The Regional Director of the Mines and Geosciences Bureau approved the assignment of rights on September 6, 2006.

Fearing the consequences of Olympic's various attempts to invalidate the Operating Agreement, **Platinum filed a complaint for quieting of title, damages, breach of contract, and specific performance against Olympic** before the RTC of Puerto Princesa, Palawan, Branch 95 on June 14, 2006 (docketed as **Civil Case No. 4199**). Olympic filed a motion to dismiss alleging that the trial court was without jurisdiction to rule on the issues raised in the complaint, as these involved a mining dispute requiring the technical expertise of the Panel of Arbitrators (POA). The RTC, through Judge Blancaflor, denied Olympic's motion to dismiss.<sup>[7]</sup>

On July 21, 2006, Judge Blancaflor issued an order granting Platinum's application for a **writ of preliminary injunction**. The writ directed Olympic, its assignees, successors-in-interest, agents, and representatives, to respect Platinum's rights under the Operating Agreement. Judge Blancaflor thereafter issued another order<sup>[8]</sup> granting Platinum's application for an **extended writ of preliminary injunction** to enjoin the DENR and its offices and agencies from acting in any manner that will disturb the *status quo* or impede or affect the full enjoyment of Platinum's rights under the Operating Agreement. **The validity of the injunctive writs and the jurisdiction of the RTC to hear Civil Case No. 4199 are the main focuses of G.R. Nos. 178188, 183527, and 180674.**

Meanwhile, Citinickel, after the execution of the Deed of Assignment, also made several attempts to invalidate the Operating Agreement, in the way its predecessor Olympic did. It filed Civil Case No. 06-0185 before the RTC of Parañaque, Branch 258, on June 21, 2006 for rescission of the Operating Agreement; the trial court dismissed the case on the grounds of forum shopping and improper venue, among others. Two other administrative cases<sup>[9]</sup> filed by Citinickel against Platinum for the cancellation of its (Platinum's) permits were likewise dismissed.

While Civil Case No. 06-0185 was pending before the RTC of Parañaque, however, Citinickel filed another administrative action with the POA of the DENR, docketed as **POA Case No. 002-06-B**, asking for a writ of injunction against Platinum and for the cancellation of the Operating Agreement. This time, Citinickel succeeded; the POA issued a resolution dated October 30, 2006 (*POA Resolution*) cancelling the Operating Agreement and Platinum's SSMPs, and Platinum was ordered to cease and

desist from operating the subject mining areas. **The validity of the POA Resolution in light of the writs of injunction issued in Civil Case No. 4199 is the subject of the fourth case, G.R. No. 181141.**

For a more graphic presentation, as in the Court's Decision of May 8, 2009, we reprint the table summarizing the cases filed by the parties involving the Operating Agreement:

<b>Case Number</b>	<b>Parties</b>	<b>Cause of Action</b>	<b>Status</b>
<b>Civil Case No. 4181 (RTC Palawan, Branch 52)</b>	Olympic v. Platinum	<b>Complaint for injunction</b> to enjoin Platinum from continuing mining activities filed on April 25, 2006	<ul style="list-style-type: none"> <li>• <b>May 16, 2006 Order dismissing the complaint for injunction</b> after finding that unilateral termination of the Operating Agreement was illegal (<b>Branch 52 Order</b>).</li> <li>• Olympic did not appeal the Order.</li> </ul>
<b>PMRB Case No. 001-06</b>	Olympic v. Platinum	Complaint for revocation of Platinum's SSMPs dated May 18, 2006	<ul style="list-style-type: none"> <li>• August 16, 2006 Resolution dismissing complaint on the basis of the Branch 52 Order, which had become final and executory.</li> </ul>
<b>Civil Case No. 4199 (RTC Palawan, Branch 95)</b>	Platinum v. Olympic	Complaint for quieting of title, damages, and specific performance	<ul style="list-style-type: none"> <li>• July 21, 2005 Order granting the writ of preliminary injunction against Olympic and Citinickel</li> <li>• August 15, 2006 Order denying Olympic's motion to dismiss/suspend proceedings</li> </ul>
<b>DENR POA Case No. 2006-01-B</b>	Olympic v. Platinum	Petition to cancel Operating Agreement and revoke Platinum's SSMPs dated June 8, 2006	<ul style="list-style-type: none"> <li>• June 20, 2006 Notice of Withdrawal filed by Olympic</li> </ul>
<b>Civil Case No. 06-0185 (RTC Paranaque)</b>	Citinickel v. Platinum	Complaint to rescind Operating Agreement dated June 21, 2006	<ul style="list-style-type: none"> <li>• December 22, 2006 Order dismissing complaint on the ground of <b>forum shopping and improper venue</b>.</li> <li>• Citinickel did not appeal the Order.</li> </ul>

<b>PMRB Case No. 002-06</b>	Citinickel v. Platinum	Petition to cancel Platinum's SSMPs dated July 12, 2006	<ul style="list-style-type: none"> <li>September 12, 2006 Resolution dismissing the petition on the basis of the injunctive writ issued in Civil Case No. 4199 and <b>the forum shopping committed by Citinickel.</b></li> </ul>
<b>DENR POA Case No. 2006-02-B</b>	Citinickel v. Platinum	Complaint to cancel Operating Agreement and to issue injunction against Platinum dated July 19, 2006	<ul style="list-style-type: none"> <li><b>October 30, 2006 Resolution</b> cancelling OA and SSMP of Platinum (<b>POA Resolution</b>)</li> </ul>
<b>EMB letter-complaints filed as DENR EMB Case No. 8253</b>	Citinickel v. Platinum	Complaint to cancel ECCs issued to Platinum dated July 31, 2006	<ul style="list-style-type: none"> <li>Elevated to DENR Secretary by Citinickel on account of alleged inaction of EMB</li> <li>Sept 25, 2006 Order of DENR Secretary cancelling the ECCs issued to Platinum</li> <li>Nov 22 Order denying MR of Platinum</li> <li>Feb 26, 2007 Decision of the Office of the President reversing DENR Secretary's Order that cancelled the ECCs</li> </ul>
<b>Civil Case No. Q-07-59855 (RTC Quezon City, Branch 76)</b>	Citinickel v. DENR	Petition for mandamus to compel DENR Secretary to confiscate and hold mineral ores stockpiled in Palawan pier	<ul style="list-style-type: none"> <li>May 4, 2007 Order dismissing the petition <b>for lack of merit and forum shopping.</b></li> </ul>

### **THE COURT'S MAY 8, 2009 DECISION**

The consolidated cases raised the following matters:

- a) in **G.R. No. 178188**, Olympic claimed that the RTC of Palawan was without jurisdiction to hear Civil Case No. 4199 (Platinum's action for quieting of title) since it is the POA that has exclusive jurisdiction over the case;
- b) in **G.R. No. 183527**, Platinum assailed the Court of Appeals (CA) resolution<sup>[10]</sup> that granted Dy's petition to nullify the injunctive writs issued by the RTC of Palawan in Civil Case No. 4199 and to enjoin the trial court from hearing and conducting further proceedings in the same case. Platinum likewise questioned Dy's