

## SECOND DIVISION

**[ G.R. No. 169080, December 19, 2007 ]**

**CELESTIAL NICKEL MINING EXPLORATION CORPORATION,  
PETITIONER, VS. MACROASIA CORPORATION (FORMERLY  
INFANTA MINERAL AND INDUSTRIAL CORPORATION),  
CORPORATION, AND LEBACH MINING CORPORATION,  
RESPONDENTS.**

**[G.R. No. 172936]**

**BLUE RIDGE MINERAL CORPORATION, PETITIONER, VS. HON.  
ANGELO REYES IN HIS CAPACITY AS SECRETARY OF THE  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES,  
HON. GUILLERMO ESTABILLO IN HIS CAPACITY AS REGIONAL  
DIRECTOR OF THE MINES AND GEOSCIENCES BUREAU, REGION  
IV-B OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL  
RESOURCES, AND MACROASIA CORPORATION (FORMERLY  
INFANTA MINERAL AND INDUSTRIAL CORPORATION),  
RESPONDENTS.**

**[G.R. No. 176226]**

**CELESTIAL NICKEL MINING EXPLORATION CORPORATION,  
PETITIONER, VS. BLUE RIDGE MINERAL CORPORATION AND  
MACROASIA CORPORATION (FORMERLY INFANTA MINERAL AND  
INDUSTRIAL CORPORATION),RESPONDENTS.**

**[G.R. No. 176319]**

**MACROASIA CORPORATION (FORMERLY INFANTA MINERAL AND  
INDUSTRIAL CORPORATION), PETITIONER, VS. BLUE RIDGE  
MINERAL CORPORATION AND CELESTIAL NICKEL MINING  
EXPLORATION CORPORATION, RESPONDENTS.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

Before us are four (4) petitions. The first is a Petition for Review on Certiorari<sup>[1]</sup> under Rule 45 docketed as **G.R. No. 169080**, wherein petitioner Celestial Nickel Mining Exploration Corporation (Celestial) seeks to set aside the April 15, 2005 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 87931. The CA affirmed the November 26, 2004 Resolution of the Mines Adjudication Board (MAB) in MAB Case Nos. 056-97 and 057-97 (DENR Case Nos. 97-01 and 97-02), upholding the

authority of the Department of Environment and Natural Resources (DENR) Secretary to grant and cancel mineral agreements. Also assailed is the August 3, 2005 Resolution<sup>[3]</sup> of the CA denying the Motion for Reconsideration of the assailed Decision.

The second is a Petition for Certiorari<sup>[4]</sup> under Rule 65 docketed as **G.R. No. 172936**, wherein petitioner Blue Ridge Mineral Corporation (Blue Ridge) seeks to annul and set aside the action of then Secretary Michael T. Defensor, in his capacity as DENR Secretary, approving and signing two Mineral Production Sharing Agreements (MPSAs) in favor of Macroasia Corporation (Macroasia) denominated as MPSA Nos. 220-2005-IVB and 221-2005-IVB.

And the third and fourth are petitions for review on certiorari<sup>[5]</sup> under Rule 45 docketed as **G.R. No. 176226** and **G.R. No. 176319**, wherein petitioners Celestial and Macroasia, respectively, seek to set aside the May 18, 2006 Decision<sup>[6]</sup> of the CA in CA-G.R. SP No. 90828. The CA reversed and set aside the November 26, 2004 and July 12, 2005 Resolutions of the MAB, and reinstated the October 24, 2000 Decision in MAB Case Nos. 056-97 and 057-97, granting Blue Ridge the prior and preferential right to file its application over the mining claims of Macroasia. These petitions likewise seek to set aside the January 19, 2007 Resolution<sup>[7]</sup> of the CA denying petitioners' motions for reconsideration of the assailed Decision.

Through our July 5, 2006 Resolution,<sup>[8]</sup> we consolidated the first two cases. While in our subsequent April 23, 2007<sup>[9]</sup> and July 11, 2007<sup>[10]</sup> Resolutions, we consolidated the four cases as they arose from the same facts.

The undisputed facts as found by the CA in CA-G.R. SP No. 87931 are as follows:

On September 24, 1973, the then Secretary of Agriculture and Natural Resources and Infanta Mineral and Industrial Corporation (Infanta) entered into a Mining Lease Contract (V-1050) for a term of 25 years up to September 23, 1998 for mining lode claims covering an area of 216 hectares at Sitio Linao, Ipilan, Brooke's Point, Palawan. The mining claims of Infanta covered by lode/lease contracts were as follows:

<u>Contract No.</u>	<u>Area</u>	<u>Date of Issuance</u>
LLC-V-941	18 hectares	January 17, 1972
LC-V-1050	216 hectares	September 24, 1973
LLC-V-1060	16 hectares	October 30, 1973
LLC-V-1061	144 hectares	October 30, 1973
LLC-V-1073	144 hectares	April 18, 1973
MLC-MRD-52	306 hectares	April 26, 1978
MLC-MRC-53	72 hectares	April 26, 1978

Infanta's corporate name was changed to Cobertson Holdings Corporation on January 26, 1994 and subsequently to its present name, Macroasia Corporation, on November 6, 1995.

Sometime in 1997, Celestial filed a Petition to Cancel the subject mining lease contracts and other mining claims of Macroasia including those covered by Mining

Lease Contract No. V-1050, before the Panel of Arbitrators (POA) of the Mines and Geo-Sciences Bureau (MGB) of the DENR. The petition was docketed as DENR Case No. 97-01.

Blue Ridge, in an earlier letter-petition, also wrote the Director of Mines to seek cancellation of mining lease contracts and other mining rights of Macroasia and another entity, Lebach Mining Corporation (Lebach), in mining areas in Brooke's Point. The petition was eventually docketed as DENR Case No. 97-02.

Celestial is the assignee of 144 mining claims covering such areas contiguous to Infanta's (now Macroasia) mining lode claims. Said area was involved in protracted administrative disputes with Infanta (now Macroasia), Lecar & Sons, Inc., and Palawan Nickel Mining Corporation. Celestial also holds an MPSA with the government which covers 2,835 hectares located at Ipilan/Maasin, Brooke's Point, Palawan and two pending applications covering another 4,040 hectares in Barangay Mainit also in Brooke's Point.

Celestial sought the cancellation of Macroasia's lease contracts on the following grounds: (1) the nonpayment of Macroasia of required occupational fees and municipal taxes; (2) the non-filing of Macroasia of Affidavits of Annual Work Obligations; (3) the failure of Macroasia to provide improvements on subject mining claims; (4) the concentration of Macroasia on logging; (5) the encroachment, mining, and extraction by Macroasia of nickel ore from Celestial's property; (6) the ability of Celestial to subject the mining areas to commercial production; and (7) the willingness of Celestial to pay fees and back taxes of Macroasia.

In the later part of the proceedings, Macroasia intervened in the case and submitted its position paper refuting the grounds for cancellation invoked by Celestial.<sup>[11]</sup>

### **The Ruling of the Panel of Arbitrators in DENR Case Nos. 97-01 and 97-02**

Based on the records of the Bureau of Mines and findings of the field investigations, the POA found that Macroasia and Lebach not only automatically abandoned their areas/mining claims but likewise had lost all their rights to the mining claims. The POA granted the petition of Celestial to cancel the following Mining Lease Contracts of Macroasia: LLC-V-941, LLC-V-1050, LLC-V-1060, LLC-V-1061, LLC-V-1073, MLC-MRD-52, and MLC-MRC-53; and found the claims of the others indubitably meritorious. It gave Celestial the preferential right to Macroasia's mining areas.<sup>[12]</sup> It upheld Blue Ridge's petition regarding DENR Case No. 97-02, but only as against the Mining Lease Contract areas of Lebach (LLC-V-1153, LLC-V-1154, and LLC-V-1155), and the said leased areas were declared automatically abandoned. It gave Blue Ridge priority right to the aforesaid Lebach's areas/mining claims.<sup>[13]</sup>

Blue Ridge and Macroasia appealed before the MAB, and the cases were docketed as MAB Case Nos. 056-97 and 057-97, respectively.

Lebach did not file any notice of appeal with the required memorandum of appeal; thus, with respect to Lebach, the above resolution became final and executory.

**The Rulings of the Mines Adjudication Board in  
MAB Case Nos. 056-97 and 057-97 (DENR Case Nos. 97-01 and 97-02)**

The MAB resolved the issues of timeliness and perfection of Macroasia's appeal; Macroasia's abandonment of its mining claims; and the preferential right over the abandoned mining claims of Macroasia.

Conformably with Section 51 of Consolidated Mines Administrative Order (CMAO)<sup>[14]</sup> implementing Presidential Decree No. (PD) 463<sup>[15]</sup> and our ruling in *Medrana v. Office of the President (OP)*,<sup>[16]</sup> the MAB affirmed the POA findings that Macroasia abandoned its mining claims. The MAB found that Macroasia did not comply with its work obligations from 1986 to 1991. It based its conclusion on the field verifications conducted by the MGB, Region IV and validated by the Special Team tasked by the MAB.<sup>[17]</sup> However, contrary to the findings of the POA, the MAB found that it was Blue Ridge that had prior and preferential rights over the mining claims of Macroasia, and not Celestial.

Thus, on October 24, 2000, the MAB promulgated its Decision upholding the Decision of the POA to cancel the Mining Lode/Lease Contracts of Macroasia; declaring abandoned the subject mining claims; and opening the mining area with prior and preferential rights to Blue Ridge for mining applications, subject to strict compliance with the procedure and requirements provided by law. In case Blue Ridge defaults, Celestial could exercise the secondary priority and preferential rights, and subsequently, in case Celestial also defaults, other qualified applicants could file.<sup>[18]</sup>

Both Celestial and Macroasia moved for reconsideration.<sup>[19]</sup> Celestial asserted that it had better rights than Blue Ridge over the mining claims of Macroasia as it had correctly filed its petition, and filed its MPSA application after Macroasia's lease contract expired on January 17, 1997 and after the POA's resolution was issued on September 1, 1997. Moreover, it argued that priority was not an issue when the contested area had not yet been declared abandoned. Thus, Blue Ridge's MPSA application filed on June 17, 1996 had no effect and should not be considered superior since Macroasia's lease contracts were still valid and subsisting and could not have been canceled by Macroasia's mere failure to perform annual work obligations and pay corresponding royalties/taxes to the government.

Macroasia, in its Motion for Reconsideration, reiterated that it did not abandon its mining claims, and even if mining was not listed among its purposes in its amended Articles of Incorporation, its mining activities were acts that were only *ultra vires* but were ratified as a secondary purpose by its stockholders in subsequent amendments of its Articles of Incorporation.

Before the MAB could resolve the motions for reconsideration, on March 16, 2001, Macroasia filed its Supplemental Motion for Reconsideration<sup>[20]</sup> questioning the jurisdiction of the POA in canceling mining lease contracts and mining claims. Macroasia averred that the power and authority to grant, cancel, and revoke mineral agreements is exclusively lodged with the DENR Secretary. Macroasia further pointed out that in arrogating upon itself such power, the POA whimsically and capriciously discarded the procedure on conferment of mining rights laid down in

Republic Act No. (RA) 7942, *The Philippine Mining Act of 1995*, and DENR Administrative Order No. (AO) 96-40,<sup>[21]</sup> and perfunctorily and improperly awarded its mining rights to Blue Ridge and Celestial.

Subsequently, on November 26, 2004, the MAB issued a Resolution<sup>[22]</sup> vacating its October 24, 2000 Decision, holding that neither the POA nor the MAB had the power to revoke a mineral agreement duly entered into by the DENR Secretary, ratiocinating that there was no provision giving the POA and MAB the concurrent power to manage or develop mineral resources. The MAB further held that the power to cancel or revoke a mineral agreement was exclusively lodged with the DENR Secretary; that a petition for cancellation is not a mining dispute under the exclusive jurisdiction of the POA pursuant to Sec. 77 of RA 7942; and that the POA could only adjudicate claims or contests during the MPSA application and not when the claims and leases were already granted and subsisting.

Moreover, the MAB held that there was no abandonment by Macroasia because the DENR Secretary had not decided to release Macroasia from its obligations. The Secretary may choose not to release a contractor from its obligations on grounds of public interest. Thus, through its said resolution, the MAB rendered its disposition, as follows:

WHEREFORE, premises considered, the assailed Decision of October 24, 2000 is hereby VACATED. The seven (7) mining lease contracts of Macroasia Corporation (formerly Infanta Mineral & Industrial Corporation) are DECLARED SUBSISTING prior to their expirations without prejudice to any Decision or Order that the Secretary may render on the same. NO PREFERENTIAL RIGHT over the same mining claims is accorded to Blue Ridge Mineral Corporation or Celestial Nickel Mining Exploration Corporation also without prejudice to the determination by the Secretary over the matter at the proper time.<sup>[23]</sup>

After the issuance of the MAB Resolution, Celestial and Blue Ridge went through divergent paths in their quest to protect their individual interests.

On January 10, 2005, Celestial assailed the November 26, 2004 MAB Resolution before the CA in a petition for review<sup>[24]</sup> under Rule 43 of the Rules of Court. The petition entitled *Celestial Nickel Mining Exploration Corporation v. Macroasia Corporation, et al.* was docketed as CA-G.R. SP No. 87931.

On the other hand, Blue Ridge first filed a Motion for Reconsideration<sup>[25]</sup> which was denied.<sup>[26]</sup> On August 26, 2005, Blue Ridge questioned the MAB's November 26, 2004 and July 12, 2005 Resolutions before the CA in a petition for review<sup>[27]</sup> entitled *Blue Ridge Mineral Corporation v. Mines Adjudication Board, et al.* docketed as CA-G.R. SP No. 90828.

CA-G.R. SP No. 87931 filed by Celestial was heard by the 12th Division of the CA; while Blue Ridge's CA-G.R. SP No. 90828 was heard by the Special 10th Division. Ironically, the two divisions rendered two (2) diametrically opposing decisions.

### **The Ruling of the Court of Appeals Twelfth Division**