

FIRST DIVISION

[G.R. No. 149927, March 30, 2004]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
(DENR) UNDER THEN MINISTER ERNESTO R. MACEDA; AND
FORMER GOVERNMENT OFFICIALS CATALINO MACARAIG,
FULGENCIO S. FACTORAN, ANGEL C. ALCALA, BEN MALAYANG,
ROBERTO PAGDANGANAN, MARIANO Z. VALERA AND ROMULO
SAN JUAN, PETITIONERS, VS. ROSEMOOR MINING AND
DEVELOPMENT CORPORATION, PEDRO DEL CONCHA, AND
ALEJANDRO AND RUFO DE GUZMAN, RESPONDENTS.**

DECISION

PANGANIBAN, J.:

A mining license that contravenes a mandatory provision of the law under which it is granted is void. Being a mere privilege, a license does not vest absolute rights in the holder. Thus, without offending the due process and the non-impairment clauses of the Constitution, it can be revoked by the State in the public interest.

The Case

Before us is a Petition for Review^[1] under Rule 45 of the Rules of Court, seeking to nullify the May 29, 2001 Decision^[2] and the September 6, 2001 Resolution^[3] of the Court of Appeals (CA) in CA-GR SP No. 46878. The CA disposed as follows:

**"WHEREFORE, premises considered, the appealed Decision is hereby
AFFIRMED in toto."**^[4]

The questioned Resolution denied petitioners' Motion for Reconsideration.

On the other hand, trial court's Decision, which was affirmed by the CA, had disposed as follows:

"WHEREFORE, judgment is hereby rendered as follows:

- '1. Declaring that the cancellation of License No. 33 was done without jurisdiction and in gross violation of the Constitutional right of the petitioners against deprivation of their property rights without due process of law and is hereby set aside.
- '2. Declaring that the petitioners' right to continue the exploitation of the marble deposits in the area covered by License No. 33 is maintained for the duration of the period of its life of twenty-five (25) years, less three (3) years of continuous operation before License No. 33 was cancelled,

unless sooner terminated for violation of any of the conditions specified therein, with due process.

'3. Making the Writ of preliminary injunction and the Writ of Preliminary Mandatory Injunction issued as permanent.

'4. Ordering the cancellation of the bond filed by the Petitioners in the sum of 1 Million.

'5. Allowing the petitioners to present evidence in support of the damages they claim to have suffered from, as a consequence of the summary cancellation of License No. 33 pursuant to the agreement of the parties on such dates as maybe set by the Court; and

'6. Denying for lack of merit the motions for contempt, it appearing that actuations of the respondents were not contumacious and intended to delay the proceedings or undermine the integrity of the Court.

'No pronouncement yet as to costs.'"^[5]

The Facts

The CA narrated the facts as follows:

"The four (4) petitioners, namely, Dr. Lourdes S. Pascual, Dr. Pedro De la Concha, Alejandro De La Concha, and Rufo De Guzman, after having been granted permission to prospect for marble deposits in the mountains of Biak-na-Bato, San Miguel, Bulacan, succeeded in discovering marble deposits of high quality and in commercial quantities in Mount Mabio which forms part of the Biak-na-Bato mountain range.

"Having succeeded in discovering said marble deposits, and as a result of their tedious efforts and substantial expenses, the petitioners applied with the Bureau of Mines, now Mines and Geosciences Bureau, for the issuance of the corresponding license to exploit said marble deposits.

x x x

x x x

x x x

"After compliance with numerous required conditions, License No. 33 was issued by the Bureau of Mines in favor of the herein petitioners.

x x x

x x x

x x x

"Shortly after Respondent Ernesto R. Maceda was appointed Minister of the Department of Energy and Natural Resources (DENR), petitioners' License No. 33 was cancelled by him through his letter to ROSEMOOR MINING AND DEVELOPMENT CORPORATION dated September 6, 1986 for the reasons stated therein. Because of the aforesaid cancellation, the original petition was filed and later substituted by the petitioners' AMENDED PETITION dated August 21, 1991 to assail the same.

"Also after due hearing, the prayer for injunctive relief was granted in the Order of this Court dated February 28, 1992. Accordingly, the corresponding preliminary writs were issued after the petitioners filed their injunction bond in the amount of ONE MILLION PESOS (P1,000,000.00).

x x x

x x x

x x x

"On September 27, 1996, the trial court rendered the herein questioned decision."^[6]

The trial court ruled that the privilege granted under respondents' license had already ripened into a property right, which was protected under the due process clause of the Constitution. Such right was supposedly violated when the license was cancelled without notice and hearing. The cancellation was said to be unjustified, because the area that could be covered by the four separate applications of respondents was 400 hectares. Finally, according to the RTC, Proclamation No. 84, which confirmed the cancellation of the license, was an *ex post facto* law; as such, it violated Section 3 of Article XVIII of the 1987 Constitution.

On appeal to the Court of Appeals, herein petitioners asked whether PD 463 or the Mineral Resources Development Decree of 1974 had been violated by the award of the 330.3062 hectares to respondents in accordance with Proclamation No. 2204. They also questioned the validity of the cancellation of respondents' Quarry License/Permit (QLP) No. 33.

Ruling of the Court of Appeals

Sustaining the trial court *in toto*, the CA held that the grant of the quarry license covering 330.3062 hectares to respondents was authorized by law, because the license was embraced by four (4) separate applications -- each for an area of 81 hectares. Moreover, it held that the limitation under Presidential Decree No. 463 -- that a quarry license should cover not more than 100 hectares in any given province -- was supplanted by Republic Act No. 7942,^[7] which increased the mining areas allowed under PD 463.

It also ruled that the cancellation of respondents' license without notice and hearing was tantamount to a deprivation of property without due process of law. It added that under the clause in the Constitution dealing with the non-impairment of obligations and contracts, respondents' license must be respected by the State.

Hence, this Petition.^[8]

Issues

Petitioners submit the following issues for the Court's consideration:

"(1) [W]hether or not QLP No. 33 was issued in blatant contravention of Section 69, P.D. No. 463; and (2) whether or not Proclamation No. 84 issued by then President Corazon Aquino is valid. The corollary issue is

whether or not the Constitutional prohibition against ex post facto law applies to Proclamation No. 84”^[9]

The Court’s Ruling

The Petition has merit.

First Issue: **Validity of License**

Respondents contend that the Petition has no legal basis, because PD 463 has already been repealed.^[10] In effect, they ask for the dismissal of the Petition on the ground of mootness.

PD 463, as amended, pertained to the old system of exploration, development and utilization of natural resources through licenses, concessions or leases.^[11] While these arrangements were provided under the 1935^[12] and the 1973^[13] Constitutions, they have been omitted by Section 2 of Article XII of the 1987 Constitution.^[14]

With the shift of constitutional policy toward “full control and supervision of the State” over natural resources, the Court in *Miners Association of the Philippines v. Factoran Jr.* ^[15] declared the provisions of PD 463 as contrary to or violative of the express mandate of the 1987 Constitution. The said provisions dealt with the lease of mining claims; quarry permits or licenses covering privately owned or public lands; and other related provisions on lease, licenses and permits.

RA 7942 or the Philippine Mining Act of 1995 embodies the new constitutional mandate. It has repealed or amended all laws, executive orders, presidential decrees, rules and regulations -- or parts thereof -- that are inconsistent with any of its provisions.^[16]

It is relevant to state, however, that Section 2 of Article XII of the 1987 Constitution does not apply retroactively to a “license, concession or lease” granted by the government under the 1973 Constitution or before the effectivity of the 1987 Constitution on February 2, 1987.^[17] As noted in *Miners Association of the Philippines v. Factoran Jr.*, the deliberations of the Constitutional Commission^[18] emphasized the intent to apply the said constitutional provision prospectively.

While RA 7942 has expressly repealed provisions of mining laws that are inconsistent with its own, it nonetheless respects previously issued valid and existing licenses, as follows:

“SECTION 5. Mineral Reservations. — When the national interest so requires, such as when there is a need to preserve strategic raw materials for industries critical to national development, or certain minerals for scientific, cultural or ecological value, the President may establish mineral reservations upon the recommendation of the Director through the Secretary. Mining operations in existing mineral reservations and such other reservations as may thereafter be established, shall be undertaken by the Department or through a contractor: Provided, That a

small scale-mining cooperative covered by Republic Act No. 7076 shall be given preferential right to apply for a small-scale mining agreement for a maximum aggregate area of twenty-five percent (25%) of such mineral reservation, subject to valid existing mining/quarrying rights as provided under Section 112 Chapter XX hereof. All submerged lands within the contiguous zone and in the exclusive economic zone of the Philippines are hereby declared to be mineral reservations.

"x x x

x x x

x x x

"SECTION 7. Periodic Review of Existing Mineral Reservations. — The Secretary shall periodically review existing mineral reservations for the purpose of determining whether their continued existence is consistent with the national interest, and upon his recommendation, the President may, by proclamation, alter or modify the boundaries thereof or revert the same to the public domain without prejudice to prior existing rights."

"SECTION 18. Areas Open to Mining Operations. — Subject to any existing rights or reservations and prior agreements of all parties, all mineral resources in public or private lands, including timber or forestlands as defined in existing laws, shall be open to mineral agreements or financial or technical assistance agreement applications. Any conflict that may arise under this provision shall be heard and resolved by the panel of arbitrators."

"SECTION 19. Areas Closed to Mining Applications. -- Mineral agreement or financial or technical assistance agreement applications shall not be allowed:

(a) In military and other government reservations, except upon prior written clearance by the government agency concerned;

(b) Near or under public or private buildings, cemeteries, archeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works including plantations or valuable crops, except upon written consent of the government agency or private entity concerned;

(c) In areas covered by valid and existing mining rights;

(d) In areas expressly prohibited by law;

(e) In areas covered by small-scale miners as defined by law unless with prior consent of the small-scale miners, in which case a royalty payment upon the utilization of minerals shall be agreed upon by the parties, said royalty forming a trust fund for the socioeconomic development of the community concerned; and

(f) Old growth or virgin forests, proclaimed watershed forest