

## **FIRST DIVISION**

**[ G.R. No. 140799, September 10, 2002 ]**

**TOMAS T. TEODORO, PETITIONER, VS. THE COURT OF APPEALS  
AND CONTINENTAL CEMENT CORPORATION, RESPONDENTS.**

### **D E C I S I O N**

**YNARES-SANTIAGO, J.:**

It appears from the records that on July 13, 1959, PAMI Development Corporation registered with the Mining Records of Bulacan its mining claims to a parcel of land consisting of 185.8611 hectares, located at San Mateo, Norzagaray, Bulacan. On December 23, 1964, it was issued Placer Lease Contracts, later renamed Mining Lease Contracts (MLC), Nos. V-202 and V-203, for a period of twenty-five years. On January 5, 1965, PAMI sold its mining claims to respondent Continental Cement Corporation.

Almost fifteen years later, on April 10, 1980, Francisco and Tomas Teodoro applied for quarry permits with the Bureau of Mines, denominated as AQP-551 and AQP-552, over their property located at Barrio Pinagkamaligan, Norzagaray, Bulacan. The Bureau of Mines denied the Teodoros' application since it will conflict with the mining claims of respondent.

Subsequently, the Teodoros filed with the then Ministry of Natural Resources a petition for cancellation of respondent's MLC Nos. V-202 and V-203 on the ground of non-development of mineral lands. The said mining lease contracts of respondent were cancelled for non-compliance with the work obligations under the law.

Respondent appealed the cancellation order to the Office of the President, docketed as OP Case No. 2755. While the appeal was pending, the Bureau of Mines and Geo-Sciences issued Quarry Temporary Permit (QTP) No. 186 to the Teodoros.

On January 5, 1987, then Deputy Executive Secretary Fulgencio Factoran set aside the orders of cancellation and reinstated respondent's mining lease contracts, after finding that respondent actually performed the work obligations on the PAMI mining claims.

Anticipating the expiration of the term of its mining lease contracts, respondent applied for the renewal thereof. In the meantime, the Department of Environment and Natural Resources (DENR) issued Administrative Order No. 82 mandating that all mining lease applications, including renewal applications, be converted to Mineral Production Sharing Arrangement (MPSA) applications.

Accordingly, on April 25, 1991, respondent filed with the DENR an application, docketed as MPSA-P-III-9, for a Mineral Production Sharing Agreement over a 547.68-portion of land in Norzagaray, Bulacan. Petitioner Tomas Teodoro opposed the application, alleging that the area subject thereof included a tract of land owned by him and Francisco Teodoro. Hence, he prayed that the said portion, consisting of

12.88 hectares, be excluded from the respondent's application. His opposition was docketed as DENR Case No. MSC-III-1-93.

The Regional Executive Director of the DENR, Region III, dismissed petitioner's opposition on May 25, 1993. Petitioner appealed to the Secretary of the DENR who, on April 13, 1994, dismissed the appeal for lack of merit and affirmed the Decision of the Regional Director.<sup>[1]</sup> Petitioner's motion for reconsideration was denied in a Resolution dated April 18, 1995. Thus, petitioner interposed an appeal to the Office of the President, where the same was docketed as OP Case No. 6167.

On September 26, 1996, the Office of the President dismissed petitioner's appeal.<sup>[2]</sup> Petitioner filed a motion for reconsideration which was granted in a Resolution of the Office of the President dated December 26, 1996, which set aside the appealed decisions of the DENR and directed the Secretary of the DENR to exclude Teodoro's land from the coverage of respondent's MPSA.<sup>[3]</sup>

Respondent filed a Motion for Reconsideration, which was denied in a Resolution dated April 30, 1997. Respondent filed a Second Motion for Reconsideration. Petitioner filed a Motion to Expunge the Second Motion for Reconsideration citing the following grounds: (1) the Second Motion for Reconsideration was not filed by private respondent's counsel of record but by the law office of Calanog & Associates; (2) Registry Receipt No. 01150 which appeared on the envelope bearing the copy of the Second Motion served upon petitioner was not entered in the registry book of the Makati Post Office where it was supposed to have been mailed; (3) the rubber stamps appearing on the same envelope did not match those of the Makati Central Post Office; (4) the envelope was hand delivered to petitioner's counsel by a messenger of the law office of Calanog & Associates, and was not received by registered mail. Petitioner argued that by making it appear that the Second Motion for Reconsideration was filed by registered mail, private respondent attempted to resurrect an appeal of a decision that has become final and executory.

In a Resolution dated September 3, 1997,<sup>[4]</sup> the Office of the President denied respondent's Second Motion for Reconsideration on the grounds that the Calanog Law Office has no personality to file the motion, there having been no valid substitution of counsel; that second motions for reconsideration before the Office are prohibited, except in extremely meritorious cases; and that the arguments raised in the motion were a mere rehash of those already submitted in the first motion for reconsideration.

Respondent filed a petition for review with the Court of Appeals, docketed as CA-G.R. SP No. 45396.<sup>[5]</sup> Petitioner promptly filed a Motion to Expunge, arguing that the petition was filed out of time and that the verification contained therein was defective.

Instead of acting on the Motion to Expunge, the Court of Appeals required petitioner to file his comment to the petition and held in abeyance the resolution of respondent's application for a temporary restraining order. However, on October 24, 1997, the Court of Appeals, acting on respondent's urgent *ex-parte* motion, issued a temporary restraining order enjoining the enforcement of the resolutions of the Office of President.

Petitioner thereafter filed his comment to the petition. Respondent filed its reply and supplemental reply.

On June 26, 1998, the Court of Appeals rendered the assailed decision, reversing and setting aside the Resolutions of the Office of the President and making permanent the temporary restraining order previously issued.

On July 28, 1998, petitioner filed with this Court a motion<sup>[6]</sup> for extension of thirty days within which to file the petition for review, which was docketed as G.R. No. 134501. The following day, July 29, 1998, petitioner filed a Manifestation explaining why he service on respondent of the motion for extension of time was done by registered mail. On August 26, 1998, petitioner filed the petition for review.<sup>[7]</sup>

In a Resolution dated August 17, 1998,<sup>[8]</sup> this Court denied petitioner's motion for extension of time for lack of the required written explanation why service by registered mail was resorted to. In the same Resolution, this Court noted without action petitioner's Manifestation explaining why service of the motion for extension was done by registered mail.

Petitioner filed a Motion for Reconsideration. On October 12, 1998, this Court issued a Resolution<sup>[9]</sup> denying the petition for review on the following grounds: (1) lack of certification of non-forum-shopping executed by petitioner himself; and (2) late filing, in view of the denial of petitioner's motion for extension of time to file petition. Petitioner's motion for reconsideration was denied with finality.

Petitioner filed a second motion for reconsideration which, on January 13, 1999, was denied with finality.<sup>[10]</sup> Petitioner then filed a Motion for Leave to File Motion for Reconsideration, which this Court denied on March 22, 1999.<sup>[11]</sup>

Meanwhile, the Resolution of this Court dated October 12, 1998, which denied the petition for review in G.R. No. 134501, as well as the Decision of the Court of Appeals dated June 26, 1998 in CA-G.R. SP No. 45396, became final and executory.<sup>[12]</sup>

Despite the denial of the Motion for Leave to File Motion for Reconsideration, petitioner filed another Motion for Reconsideration, which this Court noted without action.<sup>[13]</sup>

Undaunted, petitioner filed an Urgent Omnibus Motion to Recall Entry of Judgment and Motion for Reconsideration. In a Resolution dated October 4, 1999, this Court denied the Omnibus Motion.

Thus, petitioner filed the instant "Petition [To Declare As Null and Void the Decision of the Court of Appeals in CA-G.R. SP No. 45396]." He contends that while the petition is not sanctioned by any provision in the 1997 Rules of Civil Procedure, the Court of Appeals' Decision is a void judgment and, therefore, can be annulled and declared void on the grounds of extrinsic fraud and lack of jurisdiction.

Petitioner argues that the Resolutions of the Office of the President were already final at the time respondent filed the petition for review before the Court of Appeals, hence the latter did not have jurisdiction to entertain the same. He also claims that the decision of the Court of Appeals was obtained through extrinsic fraud. More specifically, respondent misrepresented that its Second Motion for Reconsideration was filed through registered mail in order to make it appear that it was filed within the reglementary fifteen-day period. Further, petitioner contends that the Court of Appeals failed to follow the procedure prescribed in Rule 43 by first giving due