

MARKHAM, ONTARIO--(Marketwired - Mar 17, 2016) - [MBMI Resources Inc.](#) ("MBMI" or the "Company") (NEX:MBR.H) is pleased to provide an update on the progress of certain legal proceedings involving the Company's former affiliates in the Philippines.

On December 9, 2015, the First Division of the Philippine Supreme Court issued a Decision (the "SC Decision") in *Narra Nickel Mining and Development Corporation, et al. v. Redmont Consolidated Mines Corporation* (SC G.R. No. 202877) declaring null and void the decision of the Philippine Court of Appeals which affirmed the Office of the President's ("OP's") cancellation and/or revocation of such affiliates' Financial and Technical Assistance Agreement (the "FTAA"), "without prejudice to any other appropriate remedy the parties may take against each other."

Background

On November 8, 2006, Redmont Consolidated Mines Corporation ("Redmont") filed an application for an Exploration Permit ("EP") over mining areas located in Palawan. After an inquiry with the Department of Environment and Natural Resources ("DENR"), Redmont learned that those areas were already covered by an existing application for a Mineral Production Sharing Agreement ("MPSA") and an EP issued to Narra Nickel Mining and Development Corporation ("Narra Nickel"), Tesoro Mining and Development Corporation ("Tesoro") and McArthur Mining, Inc. ("McArthur"; collectively, the "Operating Companies"). Subsequently, the Operating Companies converted the MPSA into an FTAA application.

The FTAA application of the Operating Companies was approved. Consequently, they executed an FTAA with the Republic of the Philippines (the "Republic") on April 12, 2010.

The Operating Companies were affiliates of MBMI when the MPSA and FTAA were granted. Redmont sought the cancellation and/or revocation of the executed FTAA through a Petition dated May 7, 2010 filed before the OP. The Operating Companies opposed Redmont's Petition.

In a Decision dated April 6, 2011 (the "OP Decision"), the OP granted Redmont's Petition. It declared that: (1) the OP has the authority to cancel the FTAA because the grant of exclusive power to the President of the Philippines to enter into agreements, including FTAA's, under Republic Act No. 7942 ("Philippine Mining Act of 1995") carries with it the authority to cancel that agreement; and (2) the Operating Companies materially misrepresented themselves as Philippine corporations qualified to engage in mining activities. According to the OP Decision, the Operating Companies' alleged material misrepresentation was a valid ground for termination of the FTAA. The OP cancelled and/or revoked the FTAA and gave due course to Redmont's EP application.

The Operating Companies appealed the OP Decision to the Court of Appeals. As mentioned, the OP Decision was affirmed by the Court of Appeals. The Operating Companies then appealed to the Supreme Court, through a Petition for Review.

In its Decision dated December 9, 2015 (i.e., the SC Decision), the Supreme Court reversed the ruling of the Court of Appeals. The Supreme Court ruled that the Court of Appeals improperly took cognizance of the case on appeal under Rule 43 of the Rules of Court because the OP's cancellation and/or revocation of the FTAA was not an exercise of quasi-judicial authority. The Supreme Court remarked that Rule 43 was a mode of appeal against a judgment, final order, resolution or award of a "quasi-judicial agency in the exercise of its quasi-judicial functions." However, the OP's cancellation and/or revocation of the FTAA was not "adjudication", but merely an exercise of an administrative function pursuant to the President's authority to invoke the Republic's rights under the FTAA.

In arriving at that conclusion, the Supreme Court reviewed the nature of an FTAA. Under the Philippine Mining Act of 1995, an FTAA is expressly characterized as a contract between the government and the mining contractor. Since it is entered into by the President on the State's behalf, and it involves a matter of public concern in that it covers large-scale exploration, development, and utilization of mineral resources, it is a government or public contract, which is, according to jurisprudence, "generally subject to the same laws and regulations which govern the validity and sufficiency of contracts between private individuals." Accordingly, an FTAA involves contract or property rights which merit protection by the due process clause of the Constitution and as such, may not be revoked or cancelled at any time.

The Supreme Court further stated that the OP, being one of the contracting parties to the FTAA, could not have adjudicated on the matter in which it is an interested party. Otherwise, the principle of mutuality of contracts would be violated. Thus, at least with respect to cases affecting an FTAA's validity, the Supreme Court effectively ruled that the OP has no quasi-judicial power to adjudicate the propriety of its cancellation/revocation.

The Supreme Court also ruled that Redmont's recourse to the OP did not adhere to the correct course of procedure. In particular, the filing by a third party of a petition for cancellation or revocation of an FTAA was not mentioned in either the Philippine Mining Act of 1995 or the FTAA itself.

Thus, the Operating Companies' Petition for Review was granted by the Supreme Court. The decision of the Court of Appeals

was declared null and void for being rendered without jurisdiction, but without prejudice to any other appropriate remedy the parties may take against each other.

Inasmuch as the SC Decision did not expressly declare the OP Decision null and void (i.e., notwithstanding its statements on Redmont's lack of no standing to apply to the OP and challenge the validity of the FTAA, and on the OP's lack of quasi-judicial power as regards the FTAA), MBMI believes that the next step is to initiate arbitration proceedings against the Republic. This action is meant to challenge the OP Decision's purported termination of the FTAA to, in accordance with the dispute resolution mechanism in the FTAA.

Contacts:

For further information relating to the Company or this release, please refer to MBMI's website at www.mbmresources.com.

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Contact

[MBMI Resources Inc.](http://www.mbmresources.com)

Joseph Chan

+1(647)299-9203

mbmi@mail.com

www.mbmresources.com