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Court dismisses Rio Tinto suit against BSGR, Vale over Guinea iron-ore mine

By ERIC REGULY

Rio's claim that BSG Resources and Vale SA conspired to steal the world's biggest undeveloped iron ore project is dismissed on a technicality

A New York judge handed Israeli diamond billionaire Beny Steinmetz a rare victory by dismissing Rio Tinto PLC's claim that he and Brazilian mining giant Vale SA conspired to steal the world's biggest undeveloped iron ore project, in Guinea, from Rio.

Judge Richard Berman of the U.S. District Court in New York dismissed the civil racketeering case against the defendants on a technicality; he ruled that Rio had waited too long to launch its case, which was filed in 2014. He agreed with the defendants that the four-year statute of limitations began in 2008, when the Guinean government stripped Rio of half of Guinea's rich Simandou iron ore deposit and handed it to BSG Resources (BSGR), a company affiliated with Mr. Steinmetz.

In a statement, Rio said "Judge Berman's decision was focused on a narrow point of law and did not rule out the evidence Rio Tinto has been gathering in the case. Rio is free to appeal Judge Berman's decision and pursue its claims in other forums, and is actively looking at all options."

But BSGR said the case "represents a significant victory for BSGR" and hinted strongly that it would use the decision to sue Rio, the world's second-biggest mining company and owner of Montreal's Alcan, for damages. BSGR's legal counsel, James Libson of Mischon de Reya LLP, said "BSGR is exploring its options to ensure it is fully compensated for the billions of dollars of damage caused to it by Rio's unlawful conduct."

While Judge Berman's decision collapses Rio's racketeering claims against BSGR and Vale, and prevents Rio from refileing those claims, Mr. Steinmetz is not in the clear in his battle to defend himself from allegations that BSGR or its associates paid massive bribes to Guinean officials, including the former minister of mines and a wife of the late Guinean president, Lasanna Conté, to secure the vast Simandou ore body.

In 2012, a U.S. grand jury opened an investigation into potential breaches of the Foreign Corrupt Practices Act related to BSGR's activities in Guinea. Investigations into possible fraud by Mr. Steinmetz and companies associated with him are under way in several countries, including the United States and Switzerland.

BSGR, in calling Rio's claim "pointless," denies all the allegations of fraudulent or corrupt behaviour and says it has a legitimate right of claim on the Simandou project. Mr. Conté's successor as Guinean President, Alpha Condé, who was elected in 2010, removed BSGR's Simandou rights, alleging they were obtained fraudulently by the company. Since then, BSGR has been fighting to get those rights restored or obtain compensation for them. The victory in the New York racketeering case may bolster BSGR's case.

Rio has been exploring Simandou since the late 1990s and realized that the resource could make it the top player in iron ore for decades. In 2008, it officially put the size of the resource at 2.25 billion tonnes. Developing Simandou, including the construction of a 650-kilometre rail line to an Atlantic ocean port, was

estimated to cost \$20-billion (U.S.) or more. In the same year, the Guinean government, under Mr. Conté, argued that Rio was dragging its feet in developing Simandou and gave half of the Simandou concession to BSGR. BSGR later sold 51 per cent of the concession to Vale, the company that bought Canada's Inco in 2006 for \$2.5-billion (U.S.).

After that, Rio launched a legal war against Vale and BSGR, alleging that they conspired to steal Simandou from Rio and that Vale used false pretenses to obtain Rio's development plans for Simandou.

BSGR's defence took a blow in 2014 when Frederic Cilins, a Frenchman who admitted that he had worked with BSGR in Africa, was sentenced to two years in prison in the United States for obstructing a grand jury investigation. Prosecutors claimed he tried to bribe a witness and destroy evidence that BSGR was behind a bribery scheme to win the rights to Simandou.

BSGR has launched an international arbitration case against the Guinean government, claiming it had no right to deprive BSGR of the Simandou concession since the allegations of fraud are unproven.

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