Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ENGINEER BEN Y. LIM, RBL FISHING CORPORATION, PALAWAN AQUACULTURE CORPORATION, and PENINSULA SHIPYARD CORPORATION,
Petitioners,

- versus -

HON. SULPICIO G. GAMOSA, Officer-in-Charge, NCIP REGIONAL HEARING OFFICE, REGION IV and TAGBANUA INDIGENOUS CULTURAL COMMUNITY OF BARANGAY BUENAVISTA, CORON, PALAWAN, as represented by FERNANDO P. AGUIDO, ERNESTO CINCO, BOBENCIO MOSQUERA, JURRY CARPIANO, VICTOR BALBUTAN, NORDITO ALBERTO, EDENG PESRO, CLAUDINA BAQUID, NONITA SALVA, and NANCHITA ALBERTO,
Respondents.

G.R. No. 193964

Present:

SERENO, *C.J.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*

Promulgated:

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DECISION

PEREZ, *J.*:

While we recognize the rights of our Indigenous Peoples (IPs) and Indigenous Cultural Communities (ICCs) as determined in the Indigenous Peoples Rights Act (IPRA), we delineate, in this case, the jurisdiction of the

National Commission on Indigenous Peoples (NCIP) as provided in Section 66[1] of the IPRA.

Assailed in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court is the Decision[2] of the Court of Appeals in CA-G.R. SP No. 98268 which denied the petition for *certiorari* of petitioners Engr. Ben Y. Lim, RBL Fishing Corporation, Palawan Aquaculture Corporation, and Peninsula Shipyard Corporation. Affirmed, then, is the Resolution[3] of the NCIP in NCIP Case No. RHO 4-01-2006.

Respondent Tagbanua Indigenous Cultural Community of Barangay Buenavista, Coron, Palawan, represented by individual respondents Fernando P. Aguido, Ernesto Cinco, Bobencio Mosquera, Jurry Carpiano, Victor Balbutan, Nordito Alberto, Edeng Pesro, Claudina Baquid, Nonita Salva, and Nanchita Alberto, filed a petition before the NCIP against petitioners for "Violation of Rights to Free and Prior and Informed Consent (FPIC) and Unauthorized and Unlawful Intrusion with Prayer for the Issuance of Preliminary Injunction and Temporary Restraining Order." [4]

Thereafter, the NCIP issued an Order dated 20 October 2006 and directing the issuance and service of summons, and setting the preliminary conference and initial hearing on the prayer for the issuance of a Temporary Restraining Order on 22 November 2006 and the conduct of an ocular inspection of the subject area on the following day, 23 November 2006.

Despite a motion to dismiss being a prohibited pleading under the NCIP Administrative Circular No. 1-03, petitioners moved to dismiss the petition on the following grounds:

> 1) Lack of jurisdiction over the subject matter of the petition because [petitioners] are not members of the Indigenous Cultural Communities/Indigenous Peoples;

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1 Section 66. *Jurisdiction of the NCIP*. − The NCIP, through its regional offices, shall have jurisdiction over all claims and disputes involving rights of ICCs/IPs: Provided, however, That no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under their customary laws. For this purpose, a certification shall be issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved, which certification shall be a condition precedent to the filing of a petition with the NCIP.

2 *Rollo*, pp. 44-56; penned by Associate Justice Antonio L. Villamor with Associate Justices Jose C. Reyes, Jr. and Rodil V. Zalameda concurring.

3 Id. at 95-105.

4 Id. at 6; Petition for Review On *Certiorari.*

> 2) Lack of jurisdiction over the persons of [petitioners], because summons were served by mail rather than by personal service;
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> 3) Lack of cause of action, because there is no allegation in the petition or document attached thereto showing that [respondents] were indeed authorized by the purported Tagbanua Indigenous Cultural Community, and no Certificate of Ancestral Domain Title has as yet been issued over the claim; [and]
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> 4) Violation of the rule ag-ainst forum shopping because [respondents] have already filed criminal cases also based on the same alleged acts before the Municipal Trial Court of Coron-Busuanga.[5]

Not contented with their filing of a Motion to Dismiss, petitioners, by way of special appearance, filed a Motion to Suspend Proceedings, arguing that "considering the nature of the issues raised [in the Motion to Dismiss], particularly, the issue on jurisdiction, it is imperative that the [Motion to Dismiss] be resolved first before other proceedings could be conducted in the instant case."[6]

On 30 November 2006, the NCIP issued a Resolution[7] denying the motion to dismiss. While affirming that a Motion to Dismiss is prohibited under Section 29 of the Rules on Pleadings, Practice and Procedure before the NCIP, the NCIP squarely ruled that: (1) it had jurisdiction over the petition filed by respondents; (2) it acquired jurisdiction over the persons of petitioners; (3) it was premature to rule on the issue of lack of cause of action; and (4) respondents did not violate the rule on forum shopping.[8]

After the denial of their motion for reconsideration, petitioners filed a petition for *certiorari* before the appellate court, seeking to reverse, annul and set aside the NCIP's twin resolutions for being tainted with grave abuse of discretion amounting to lack or excess of jurisdiction.

As previously stated, the Court of Appeals denied the petition for *certiorari* and affirmed the resolutions of the NCIP. The appellate court echoed the NCIP's stance that from the wording of Section 66 of the IPRA, the NCIP was bestowed with an all-encompassing grant of jurisdiction over all claims and disputes involving rights of ICCs/IPs and that the requirement in the proviso contained in the section, *i.e.*, obtaining a certification from the

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5 Rules on Pleadings, Practice and Procedure Before the NCIP.
6 *Rollo*, pp. 166-169.
7 Id. at 95-105.
8 Id.

Council of Elders/Leaders that the parties had exhausted all remedies provided under their customary law prior to the filing of an action, applied only to instances where both parties were members of an ICC/IP.

The NCIP also cited Section 14 of its own Rules on Pleadings, Practice and Procedure Before the NCIP which provides exceptions to the requirement of exhaustion of administrative remedies under customary laws, such as where one of the parties is: (1) either a public or private corporation, partnership, association or juridical person or a public officer or employee and the dispute is in connection with the performance of his official functions; and (2) a non-IP/ICC or does not belong to the same IP/ICC. In all, the Court of Appeals affirmed the NCIP's resolution that when a claim or dispute involves rights of the IPs/ICCs, the NCIP has jurisdiction over the case regardless of whether the opposing party is a non-IP/ICC.

Adamant, petitioners appeal to us by a petition for review on *certiorari*, echoing the same issues raised before the appellate court:

> I. WHETHER OR NOT THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN HOLDING THAT x x x THE [NCIP HAS] JURISDICTION OVER THE SUBJECT MATTER OF THE PETITION x x x;
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> II. WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERRORS IN HOLDING THAT x x x THE [NCIP] ACQUIRED JURISDICTION OVER THE PERSONS OF THE PETITIONERS; and
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> III. WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT x x x RESPONDENTS HAVE CAUSE/S OF ACTION AGAINST THE PETITIONERS.[9]

Notably, petitioners have dropped their issue that respondents are guilty of forum shopping.

At the outset, we note that none of the petitioners, the NCIP, and the appellate court have proffered an argument, and opined, on the specific nature of the jurisdiction of the NCIP, whether such is primary and concurrent with courts of general jurisdiction, and/or original and exclusive, to the exclusion of regular courts.

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9 Id. at 14.

In the main, petitioners argue that the NCIP does not have jurisdiction over the petition filed by respondents because they (petitioners) are non-IPs/ICCs. Essentially, they interpret the jurisdiction of the NCIP as limited to claims and disputes involving rights of IPs/ICCs where both opposing parties are IPs/ICCs.

On the other hand, the NCIP and the appellate court rely mainly on the wording of Section 66 of the IPRA and the averred purpose for the law's enactment, "to fulfill the constitutional mandate of protecting the rights of the indigenous cultural communities to their ancestral land and to correct a grave historical injustice to our indigenous people."[10] According to the two tribunals, "[a]ny interpretation that would restrict the applicability of the IPRA law exclusively to its members would certainly leave them open to oppression and exploitation by outsiders."[11] The NCIP and the appellate court maintain that Section 66 does not distinguish between a dispute among members of ICCs/IPs and a dispute involving ICC/IP members and non-members. Thus, there is no reason to draw a distinction and limit the NCIP's jurisdiction over "all claims and disputes involving rights of ICCs/IPs."[12] Effectively, even without asseverating it, the two tribunals interpret the statutory grant of jurisdiction to the NCIP as primary, original and exclusive, in all cases and instances where the claim or dispute involves rights of IPs/ICCs, without regard to whether one of the parties is non-IP/ICC.

In addition, the NCIP promulgated its rules and regulations such as NCIP Administrative Circular No. 1-03 dated 9 April 2003, known as the "Rules on Pleadings, Practice and Procedure Before the NCIP," and Administrative Circular No. 1, Series of 2014, known as "The 2014 Revised Rules of Procedure before the National Commission on Indigenous Peoples." Sections 5 and 1, respectively of both the 2003 and 2014 Administrative Circular, Rule III, provide for the jurisdiction of the NCIP Regional Hearing Officer (RHO), thus:

> Jurisdiction of the NCIP. – The NCIP through its Regional Hearing Offices shall exercise jurisdiction over all claims and disputes involving rights of ICCs/IPs and all cases pertaining to the implementation, enforcement, and interpretation of R.A. 8371, including but not limited to the following:
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> (1) **Original and Exclusive Jurisdiction of the Regional Hearing Office (RHO)**:

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10 Id. at 15.
11 Id.
12 Id. at 17.

a. Cases involving disputes and controversies over ancestral lands/domains of ICCs/IPs;

b. Cases involving violations of the requirement of free and prior and informed consent of ICCs/IPs;

c. Actions for enforcement of decisions of ICCs/IPs involving violations of customary laws or desecration of ceremonial sites, sacred places, or rituals;

d. Actions for redemption/reconveyance under Section8(b) of R.A. 8371; and

Such other cases analogous to the foregoing.

We first dispose of the primordial question on the nature and scope of the NCIP's jurisdiction as provided in the IPRA. Specifically, the definitive issue herein boils down to whether the NCIP's jurisdiction is limited to cases where both parties are ICCs/IPs or primary and concurrent with regular courts, and/or original and exclusive, to the exclusion of the regular courts, on all matters involving rights of ICCs/IPs.

We are thus impelled to discuss jurisdiction and the different classes thereof.

Jurisdiction is the power and authority, conferred by the Constitution and by statute, to hear and decide a case.[13] The authority to decide a cause at all is what makes up jurisdiction.

Section 66 of the IPRA, the law conferring jurisdiction on the NCIP, reads:

> Sec. 66. *Jurisdiction of the NCIP*. − **The NCIP, through its regional offices, shall have jurisdiction over all claims and disputes involving rights of ICCs/IPs**: Provided, however, **That no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under their customary laws.** For this purpose, a certification shall be issued by the Council of Elders/Leaders who

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13 *Bank of Commerce v. Planters Development Bank*, G.R. Nos. 154470-71, and G.R. Nos. 154589-90, 24 September 2012, 681 SCRA 521, 522.

> participated in the attempt to settle the dispute that the same has not been resolved, which certification shall be a condition precedent to the filing of a petition with the NCIP. (Emphasis supplied).

The conferment of such jurisdiction is consistent with state policy averred in the IPRA which recognizes and promotes all the rights of ICCs/IPs within the framework of the constitution. Such is likewise reflected in the mandate of the NCIP to "protect and promote the interest and wellbeing of the ICCs/IPs with due regard to their beliefs, customs, traditions and[,] institutions".[14]

In connection thereto, from *Bank of Commerce v. Planters Development Bank,*[15] we learned that the provisions of the enabling statute are the yardsticks by which the Court would measure the quantum of quasi-judicial powers an administrative agency may exercise, as defined in the enabling act of such agency.

Plainly, the NCIP is the "primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as their rights thereto."[16] Nonetheless, the creation of such government agency does not *per se* grant it primary and/or exclusive and original jurisdiction, excluding the regular courts from taking cognizance and exercising jurisdiction over cases which may involve rights of ICCs/IPs.

Recently, in *Unduran et. al. v. Aberasturi et. al.*,[17] we ruled that Section 66 of the IPRA does not endow the NCIP with primary and/or exclusive and original jurisdiction over all claims and disputes involving rights of ICCs/IPs. Based on the qualifying proviso, we held that the NCIP's jurisdiction over such claims and disputes occur only when they arise between or among parties belonging to the same ICC/IP. Since two of the defendants therein were not IPs/ICCs, the regular courts had jurisdiction over the complaint in that case.

In his concurring opinion in *Unduran*, Justice Jose P. Perez submits that the jurisdiction of the NCIP ought to be definitively drawn to settle

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14 IPRA Section 39.
15 *Rollo*, pp. 95-105.
16 IPRA Section 38.
17 G.R. No. 181284, October 20, 2015.

doubts that still linger due to the implicit affirmation done in *The City Government of Baguio City, et. al. v. Atty. Masweng, et. al.*[18] of the NCIP's jurisdiction over cases where one of the parties are not ICCs/IPs.

In *Unduran* and as in this case, we are hard pressed to declare a primary and/or exclusive and original grant of jurisdiction to the NCIP over all claims and disputes involving rights of ICCs/IPs where there is no clear intendment by the legislature.

Significantly, the language of Section 66 is only clear on the nature of the claim and dispute as involving rights of ICCs/IPs, but ambiguous and indefinite in other respects. While using the word "all" to quantify the number of the "claims and disputes" as covering each and every claim and dispute involving rights of ICCs/IPs, Section 66 unmistakably contains a proviso, which on its face restrains or limits the initial generality of the grant of jurisdiction.

Unduran lists the elements of the grant of jurisdiction to the NCIP: (1) the claim and dispute involve the right of ICCs/IPs; **and** (2) both parties have exhausted all remedies provided under their customary laws. Both elements must be present prior to the invocation and exercise of the NCIP's jurisdiction.

Thus, despite the language that the NCIP shall have jurisdiction over all claims and disputes involving rights of ICCs/IPs, we cannot be confined to that first alone and therefrom deduce primary sole NCIP jurisdiction over all ICCs/IPs claims and disputes **to the exclusion of the regular courts**. If it were the intention of the legislative that: (1) the NCIP exercise primary jurisdiction over, and/or (2) the regular courts be excluded from taking cognizance of, claims and disputes involving rights of ICCs/IPs, the legislature could have easily done so as in other instances conferring primary, and original and exclusive jurisdiction to a specific administrative body. We will revert to this point shortly but find it pertinent to first discuss the classes of jurisdiction.

Primary jurisdiction, also known as the doctrine of Prior Resort, is the power and authority vested by the Constitution or by statute upon an administrative body to act upon a matter by virtue of its specific

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[18] 597 Phil 668 (2009).

competence.[19] The doctrine of primary jurisdiction prevents the court from arrogating unto itself the authority to resolve a controversy which falls under the jurisdiction of a tribunal possessed with special competence.[20] In one occasion, we have held that regular courts cannot or should not determine a controversy involving a question which is within the jurisdiction of the administrative tribunal before the question is resolved by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the premises of the regulatory statute administered[21] The objective of the doctrine of primary jurisdiction is to guide a court in determining whether it should refrain from exercising its jurisdiction until after an administrative agency has determined some question arising in the proceeding before the court.[22]

Additionally, primary jurisdiction does not necessarily denote exclusive jurisdiction.[23] It applies where a claim is originally cognizable in the courts and comes into play whenever enforcement of the claim requires the resolution of issues which, under a regulatory scheme, has been placed within the special competence of an administrative body; in such case, the judicial process is suspended pending referral of such issues to the administrative body for its view.[24] In some instances, the Constitution and statutes grant the administrative body primary jurisdiction, concurrent with either similarly authorized government agencies or the regular courts, such as the distinct kinds of jurisdiction bestowed by the Constitution and statutes on the Ombudsman.

The case of *Honasan II v. The Panel of Investigating Prosecutors of the Department of Justice*[25] delineated primary and concurrent jurisdiction as opposed to original and exclusive jurisdiction vested by both the Constitution and statutes[26] on the Ombudsman concurrent, albeit primary, with the Department of Justice.

Paragraph (1) of Section 13, Article XI of the Constitution, *viz*.:

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19 *Cristobal v. CA*, 353 Phil 318, 330 (1998).
20 *Crusaders Broadcasting System, Inc. v. NTC,* 388 Phil. 624, 636 (2000).
21 *Spouses Abejo v. Dela Cruz*, 233 Phil. 668, 684-685 (1987).
22 *Fabia v. Court of Appeals,* 437 Phil 389, 403 (2002).
23 *Honasan II v. The Panel of Investigating Prosecutors of the Department of Justice,* G.R. No. 159747, 13 April 2004, 427 SCRA 46, 67.
24 *Fabia v. Court of Appeals*, 437 Phil 389, 403 (2002), *supra* note 20.
25 *Supra* note 21.
26 Republic Act No. 6770, known as "The Ombudsman Act of 1989," and the 1987 Administrative Code.

SEC. 13. *The Office of the Ombudsman shall have the following powers, functions, and duties:*

> 1. Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.

does not exclude other government agencies tasked by law to investigate and prosecute cases involving public officials. If it were the intention of the framers of the 1987 Constitution, they would have expressly declared the exclusive conferment of the power to the Ombudsman. Instead, paragraph (8) of the same Section 13 of the Constitution provides:

> (8) Promulgate its rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law Accordingly, Congress enacted R.A. 6770, otherwise known as "The Ombudsman Act of 1989." Section 15 thereof provides:

Sec. 15. Powers, Functions and Duties. - The Office of the Ombudsman shall have the following powers, functions and duties:

> (1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. *It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of the government, the investigation of such cases.*

> Pursuant to the authority given to the Ombudsman by the Constitution and the Ombudsman Act of 1989 to lay down its own rules and procedure, the Office of the Ombudsman promulgated Administrative Order No. 8, dated November 8, 1990, entitled, *Clarifying and Modifying Certain Rules of Procedure of the Ombudsman*, to wit:

> A complaint filed in or taken cognizance of by the Office of the Ombudsman charging any public officer or employee including those in government-owned or controlled corporations, with an act or omission alleged to be illegal, unjust, improper or inefficient is an Ombudsman case. Such a complaint may be the subject of criminal or administrative proceedings, or both.

> *For purposes of investigation and prosecution, Ombudsman cases involving criminal offenses may be subdivided into two classes, to wit: (1) those cognizable by the Sandiganbayan, and (2) those falling under the jurisdiction of the regular courts. The difference between the two, aside from the category of the courts wherein they are filed, is on the authority to investigate as distinguished from the authority to prosecute, such cases.*
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> *The power to investigate or conduct a preliminary investigation on any Ombudsman case may be exercised by an investigator or prosecutor of the Office of the Ombudsman, or by any Provincial or City Prosecutor or their assistance, either in their regular capacities or as deputized Ombudsman prosecutors.*
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> *The prosecution of cases cognizable by the Sandiganbayan shall be under the direct exclusive control and supervision of the Office of the Ombudsman. In cases cognizable by the regular Courts, the control and supervision by the Office of the Ombudsman is only in Ombudsman cases in the sense defined above. The law recognizes a concurrence of jurisdiction between the Office of the Ombudsman and other investigative agencies of the government in the prosecution of cases cognizable by regular courts.*

It is noteworthy that as early as 1990, the Ombudsman had properly differentiated the authority to investigate cases from the authority to prosecute cases. It is on this note that the Court will first dwell on the nature or extent of the authority of the Ombudsman to investigate cases. Whence, focus is directed to the second sentence of paragraph (1), Section 15 of the Ombudsman Act which specifically provides that the Ombudsman has primary jurisdiction over cases cognizable by the Sandiganbayan, and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigating agency of the government, the investigation of such cases.

That the power of the Ombudsman to investigate offenses involving public officers or employees is not exclusive but is concurrent with other similarly authorized agencies of the government such as the provincial, city and state prosecutors has long been settled in several decisions of the Court. (Emphasis supplied)

In *Cojuangco, Jr. v. Presidential Commission on Good Government*, decided in 1990, the Court expressly declared:

> A reading of the foregoing provision of the Constitution does not show that the power of investigation including preliminary investigation vested on the Ombudsman is exclusive.

Interpreting the primary jurisdiction of the Ombudsman under Section 15 (1) of the Ombudsman Act, the Court held in said case:

Under Section 15 (1) of Republic Act No. 6770 aforecited, the Ombudsman has primary jurisdiction over cases cognizable by the Sandiganbayan so that it may take over at any stage from any investigatory agency of the government, the investigation of such cases. *The authority of the Ombudsman to investigate offenses involving public officers or employees is not exclusive but is concurrent with other similarly authorized agencies of the government. Such investigatory agencies referred to include the PCGG and the provincial and city prosecutors and their assistants, the state prosecutors and the judges of the municipal trial courts and municipal circuit trial court.*

In other words the provision of the law has opened up the authority to conduct preliminary investigation of offenses cognizable by the Sandiganbayan to all investigatory agencies of the government duly authorized to conduct a preliminary investigation under Section 2, Rule 112 of the 1985 Rules of Criminal Procedure with the only qualification that the Ombudsman may take over at any stage of such investigation in the exercise of his primary jurisdiction.

A little over a month later, the Court, in *Deloso vs. Domingo*, pronounced that the Ombudsman, under the authority of Section 13 (1) of the 1987 Constitution, has jurisdiction to investigate any crime committed by a public official, elucidating thus:

As protector of the people, the office of the Ombudsman has the power, function and duty to "act promptly on complaints filed in any form or manner against public officials" (Sec. 12) and to "investigate xxx any act or omission of any public official xxx when such act or omission appears to be illegal, unjust, improper or inefficient." (Sec.1[3].) The Ombudsman is also empowered to "direct the officer concerned," in this case the Special Prosecutor, "to take appropriate action against a public official x x x and to recommend his prosecution" (Sec. 1[3]).

The clause "any [illegal] act or omission of any public official" is broad enough to embrace any crime committed by a public official. The law does not qualify the nature of the illegal act or omission of the public official or employee that the Ombudsman may investigate. It does not require that the act or omission be related to or be connected with or arise from, the performance of official duty. Since the law does not distinguish, neither should we.

The reason for the creation of the Ombudsman in the 1987 Constitution and for the grant to it of broad investigative authority, is to insulate said office from the long tentacles of officialdom that are able to penetrate judges' and fiscals' offices, and others involved in the prosecution of erring public officials, and through the exertion of official pressure and influence, quash, delay, or dismiss investigations into malfeasances and misfeasances committed by public officers. It was deemed necessary, therefore, to create a special office to

investigate *all* criminal complaints against public officers regardless of whether or not the acts or omissions complained of are related to or arise from the performance of the duties of their office. The Ombudsman Act makes perfectly clear that the jurisdiction of the Ombudsman encompasses "*all kinds of malfeasance, misfeasance, and non-feasance* that have been committed by *any officer or employee* as mentioned in Section 13 hereof, during his tenure of office" (Sec. 16, R.A. 6770).

Indeed, the labors of the constitutional commission that created the Ombudsman as a special body to investigate erring public officials would be wasted if its jurisdiction were confined to the investigation of minor and less grave offenses arising from, or related to, the duties of public office, but would exclude those grave and terrible crimes that spring from abuses of official powers and prerogatives, for it is the investigation of the latter where the need for an independent, fearless, and honest investigative body, like the Ombudsman, is greatest.

At first blush, there appears to be conflicting views in the rulings of the Court in the *Cojuangco, Jr*. case and the *Deloso* case. However, the contrariety is more apparent than real. In subsequent cases, the Court elucidated on the nature of the powers of the Ombudsman to investigate.

In 1993, the Court held in *Sanchez vs. Demetriou*, that while it may be true that the Ombudsman has jurisdiction to investigate and prosecute any illegal act or omission of any public official, the authority of the Ombudsman to investigate is merely a primary and not an exclusive authority, thus:

The Ombudsman is indeed empowered under Section 15, paragraph (1) of RA 6770 to investigate and prosecute any illegal act or omission of any public official. However as we held only two years ago in the case of *Aguinaldo v. Domagas*, this authority "is not an exclusive authority but rather a shared or concurrent authority in respect of the offense charged."

Petitioners finally assert that the information and amended information filed in this case needed the approval of the Ombudsman. It is not disputed that the information and amended information here did not have the approval of the Ombudsman. However, we do not believe that such approval was necessary at all. In *Deloso v. Domingo*; 191 SCRA 545 (1990), the Court held that the Ombudsman has authority to investigate charges of illegal acts or omissions on the part of any public official, i.e.; any crime imputed to a public official. *It must, however, be pointed out that the authority of the Ombudsman to investigate "any [illegal] act or omission of any public official" (191 SCRA 550) is not an exclusive authority but rather a shared or concurrent authority in respect of the offense charged,* i.e.; the crime of sedition. Thus, the non-involvement of the office of the Ombudsman in the present case does not have any adverse legal consequence upon the authority of the panel of prosecutors to file and prosecute the information or amended information.

In fact, other investigatory agencies of the government such as the Department of Justice in connection with the charge of sedition, and the Presidential Commission on Good Government, in ill gotten wealth cases, may conduct the investigation.

In *Natividad v. Felix*, a 1994 case, where the petitioner municipal mayor contended that it is the Ombudsman and not the provincial fiscal who has the authority to conduct a preliminary investigation over his case for alleged Murder, the Court held:

The *Deloso* case has already been re-examined in two cases, namely *Aguinaldo v. Domagas* and *Sanchez v. Demetriou*. However, by way of amplification, we feel the need for tracing the history of the legislation relative to the jurisdiction of Sandiganbayan since the Ombudsman's primary jurisdiction is dependent on the cases cognizable by the former.

In the process, we shall observe how the policy of the law, with reference to the subject matter, has been in a state of flux.

These laws, in chronological order, are the following: (a) Pres. Decree No. 1486, -- the first law on the Sandiganbayan; (b) Pres. Decree No. 1606 which expressly repealed Pres. Decree No. 1486; (c) Section 20 of Batas Pambansa Blg. 129; (d) Pres. Decree No. 1860; and (e) Pres. Decree No. 1861.

The latest law on the Sandiganbayan, Sec. 1 of Pres. Decree No. 1861 reads as follows:

"SECTION 1. Section 4 of Presidential Decree No. 1606 is hereby amended to read as follows:

'SEC. 4. *Jurisdiction*. – The Sandiganbayan shall exercise:

'(a) Exclusive original jurisdiction in all cases involving:

. . .

(2) Other offenses or felonies committed by public officers and employees *in relation to their office*, including those employed in government-owned or controlled corporation, whether simple or complexed with other crimes, where the penalty prescribed by law is higher than prision correccional or imprisonment for six (6) years, or a fine of ₱6,000: PROVIDED, HOWEVER, that offenses or felonies mentioned in this paragraph where the penalty prescribed by law does not exceed prision correccional or imprisonment for six (6) years or a fine of ₱6,000 shall be tried by the proper Regional Trial Court,

> Metropolitan Trial Court, Municipal Trial Court and Municipal Circuit Trial Court."

A perusal of the aforecited law shows that two requirements must concur under Sec. 4(a)(2) for an offense to fall under the Sandiganbayan's jurisdiction, namely: the offense committed by the public officer must be in relation to his office and than penalty prescribed be higher then *prision correccional* or imprisonment for six (6) years, or a fine of ₱6,000.00.

Applying the law to the case at bench, we find that although the second requirement has been met, the first requirement is wanting. A review of these Presidential Decrees, except Batas Pambansa Blg. 129, would reveal that the crime committed by public officers or employees must be "in relation to their office" if it is to fall within the jurisdiction of the Sandiganbayan. This phrase which is traceable to Pres. Decree No. 1468, has been retained by Pres. Decree No. 1861 as a requirement before the Ombudsman can acquire primary jurisdiction on its power to investigate.

It cannot be denied that Pres. Decree No. 1861 is in pari materia to Article XI, Sections 12 and 13 of the 1987 Constitution and the Ombudsman Act of 1989 because, as earlier mentioned, the Ombudsman's power to investigate is dependent on the cases cognizable by the Sandiganbayan. Statutes are in pari materia when they relate to the same person or thing or to the same class of persons or things, or object, or cover the same specific or particular subject matter.

It is axiomatic in statutory construction that a statute must be interpreted, not only to be consistent with itself, but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. The rule is expressed in the maxim, "interpretare et concordare legibus est optimus interpretand," or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence. Thus, in the application and interpretation of Article XI, Sections 12 and 13 of the 1987 Constitution and the Ombudsman Act of 1989, Pres. Decree No. 1861 must be taken into consideration. It must be assumed that when the 1987 Constitution was written, its framers had in mind previous statutes relating to the same subject matter. In the absence of any express repeal or amendment, the 1987 Constitution and the Ombudsman Act of 1989 are deemed in accord with existing statute, specifically, Pres. Decree No. 1861.

R.A. No. 8249 which amended Section 4, paragraph (b) of the Sandiganbayan Law (P.D. 1861) likewise provides that for other offenses, aside from those enumerated under paragraphs (a) and (c), to fall under the exclusive jurisdiction of the Sandiganbayan, they must have been committed by public officers or employees in relation to their office.

In summation, the Constitution, Section 15 of the Ombudsman Act of 1989 and Section 4 of the Sandiganbayan Law, as amended, do not give to the Ombudsman exclusive jurisdiction to investigate offenses committed by public officers or employees. The authority of

> **the Ombudsman to investigate offenses involving public officers or employees is concurrent with other government investigating agencies such as provincial, city and state prosecutors. However, the Ombudsman, in the exercise of its primary jurisdiction over cases cognizable by the Sandiganbayan, may take over, at any stage, from any investigating agency of the government, the investigation of such cases.**
>
> **In other words, respondent DOJ Panel is not precluded from conducting any investigation of cases against public officers involving violations of penal laws but if the cases fall under the exclusive jurisdiction of the Sandiganbayan, then respondent Ombudsman may, in the exercise of its primary jurisdiction[,] take over at any stage**.
>
> x x x x
>
> **To reiterate for emphasis, the power to investigate or conduct preliminary investigation on charges against any public officers or employees may be exercised by an investigator or by any provincial or city prosecutor or their assistants, either in their regular capacities or as deputized Ombudsman prosecutors. The fact that all prosecutors are in effect deputized Ombudsman prosecutors under the OMB-DOJ Circular is a mere superfluity. The DOJ Panel need not be authorized nor deputized by the Ombudsman to conduct the preliminary investigation for complaints filed with it because the DOJ's authority to act as the principal law agency of the government and investigate the commission of crimes under the Revised Penal Code is derived from the Revised Administrative Code which had been held in the *Natividad* case as not being contrary to the Constitution. Thus, there is not even a need to delegate the conduct of the preliminary investigation to an agency which has the jurisdiction to do so in the first place. However, the Ombudsman may assert its primary jurisdiction at any stage of the investigation.**[27] (Emphasis supplied)

In contrast to our holding in *Honasan II*, the NCIP cannot be said to have even primary jurisdiction over all the ICC/IP cases comparable to what the Ombudsman has in cases falling under the exclusive jurisdiction of the Sandiganbayan. We do not find such specificity in the grant of jurisdiction to the NCIP in Section 66 of the IPRA.

Neither does the IPRA confer **original and exclusive jurisdiction** to the NCIP over all claims and disputes involving rights of ICCs/IPs.

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[27] *Honasan II v. The Panel of Investigating Prosecutors of the Department of Justice*, supra note 21 at 63.

Thus, we revert to the point on the investiture of primary and/or original and exclusive jurisdiction to an administrative body which in all instances of such grant was explicitly provided in the Constitution and/or the enabling statute, to wit:

> 1. Commission on Elections' exclusive original jurisdiction over all elections contests;[28]
>
> 2. Securities and Exchange Commission's original and exclusive jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A,[29] prior to its transfer to courts of general jurisdiction or the appropriate Regional Trial Court by virtue of Section 4 of the Securities Regulation Code;
>
> 3. Energy Regulatory Commission's original and exclusive jurisdiction over all cases contesting rates, fees, fines, and penalties imposed by it in the exercise of its powers, functions and responsibilities;[30]
>
> 4. Department of Agrarian Reform's[31] primary jurisdiction to determine and adjudicate agrarian reform matters, and its exclusive original jurisdiction over all matters involving the implementation of agrarian reform except those falling under the exclusive jurisdiction of the

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28 Article IX-C, Section 2, paragraph 2

> Section 2. The Commission on elections shall exercise the following powers and functions:
>
> x x x x
>
> (2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

29 **Section 5.** In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees**, it shall have original and exclusive jurisdiction** to hear and decide cases involving.

> a) Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partnership, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholder, partners, members of associations or organizations registered with the Commission.
>
> b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity; and
>
> c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations.

30 Republic Act No. 9136, Chapter IV, Section 43, par (v).

31 Including the creation of the Department of Agrarian Reform Adjudication board (DARAB).

> Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR);[32]
>
> 5. Construction Industry Arbitration Commission's original and exclusive jurisdiction over disputes involving contracts of construction, whether government or private, as long as the parties agree to submit the same to voluntary arbitration;[33]
>
> 6. Voluntary arbitrator's or panel of voluntary arbitrator's original and exclusive jurisdiction over all unresolved grievances arising from the interpretation or implementation of the collective bargaining agreement and those arising from the interpretation or enforcement of company personnel policies;[34]
>
> 7. The National Labor Relations Commission's (NLRC's) original and exclusive jurisdiction over cases listed in Article 217 of the Labor Code involving all workers, whether agricultural or non-agricultural; and
>
> 8. Board of Commissioners of the Bureau of Immigration's primary and exclusive jurisdiction over all deportation cases.[35]

That the proviso found in Section 66 of the IPRA is exclusionary, specifically excluding disputes involving rights of IPs/ICCs where the opposing party is non-ICC/IP, is reflected in the IPRA's emphasis of customs and customary law to govern in the lives of the ICCs/IPs. In fact, even the IPRA itself recognizes that customs and customary law cannot be applied to non-IPs/ICCs since ICCs/IPs are recognized as a distinct sector of Philippine society. This recognition contemplates their difference from the Filipino majority, their way of life, how they have continuously lived as an organized community on communally bounded and defined territory. The ICCs/IPs share common bonds of language, customs, traditions and other distinctive cultural traits, which by their resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority. ICCs/IPs also include descendants of ICCs/IPs who inhabited the country at the time of conquest or colonization, who retain some or all of their own social, economic, cultural and political institutions but who may have been displaced from

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32 The DAR's jurisdiction under Section 50 of RA No. 6657 is two-fold: (1) Essentially executive and pertains to the enforcement and administration of laws, carrying them into practical operation and enforcing their due observance, while (2) is judicial and involves the determination of rights and obligations of the parties.

33 Except for disputes arising from employer-employee relationships which shall continue to be covered by the Labor Code of the Philippines; Executive Order No. 1008; or the "Construction Industry Arbitration Law."

34 Labor Code Article. Nos. 260-261.

35 ADMINISTRATIVE CODE of 1987, Book IV, Title III, Chapter 10, Section 31.

their traditional territories, or who may have resettled outside their ancestral domains.[36]

In all, the limited or special jurisdiction of the NCIP, confined only to a special cause involving rights of IPs/ICCs, can only be exercised under the limitations and circumstances prescribed by the statute.

To effect the IPRA and its thrust to recognize and promote the rights of ICCs/IPs within the framework of the Constitution goes hand in hand with the IPRA's running theme of the primary distinctiveness of customary laws, and its application to almost all aspects of the lives of members of the IPs/ICCs, including the resolution of disputes among ICCs/IPs. The NCIP was created under the IPRA exactly to act on and resolve claims and disputes involving the rights of ICCs/IPs.[37]

Former Chief Justice Reynato Puno, in his separate opinion in *Cruz*, the first challenge to the IPRA, emphasizes the primacy of customs and customary law in the lives of the members of ICCs/IPs:

> *Custom*, *from which customary law is derived, is also recognized under the Civil Code as a source of law*. Some articles of the Civil Code expressly provide that custom should be applied in cases where no codal provision is applicable. In other words, in the absence of any applicable provision in the Civil Code, custom, when duly proven, can define rights and liabilities.
>
> *Customary law* is a *primary*, not secondary, source of rights under the IPRA and uniquely applies to ICCs/IPs. *Its recognition does not depend on the absence of a specific provision in the civil law*. The indigenous concept of ownership under customary law is specifically acknowledged and recognized, and coexists with the civil law concept and the laws on land titling and land registration[38]

Once again, the primacy of customs and customary law sets the parameters for the NCIP's limited and special jurisdiction and its consequent application in dispute resolution.[39] Demonstrably, the proviso in Section 66 of the IPRA limits the jurisdiction of the NCIP to cases of claims and

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36 See *Cruz v. Sec of Environment & Natural Resources*, 400 Phil. 904 (2000).

37 Republic Act No. 8371, Sec. 40.

38 Supra note 35.

39 See IBP Journal Article of Dean Pacifico Agabin, The Influence of Philippine Indigenous Law in the Development of new Concept of Social Justice where customs and customary law govern dispute resolution of ICCs/IPs.

disputes involving rights of ICCs/IPs where both parties are ICCs/IPs because customs and customary law cannot be made to apply to non-ICCs/IPs within the parameters of the NCIP's limited and special jurisdiction.

Indeed, non-ICCs/IPs cannot be subjected to this special and limited jurisdiction of the NCIP even if the dispute involves rights of ICCs/IPs since the NCIP has no power and authority to decide on a controversy **involving, as well, rights of non-ICCs/IPs which may be brought before a court of general jurisdiction within the legal bounds of rights and remedies**. Even as a practical concern, non-IPs and non-members of ICCs ought to be excepted from the NCIP's competence since it cannot determine the right-duty correlative, and breach thereof, between opposing parties who are ICCs/IPs and non-ICCs/IPs, the controversy necessarily contemplating application of other laws, not only customs and customary law of the ICCs/IPs. In short, the NCIP is only vested with jurisdiction to determine the rights of ICCs/IPs based on customs and customary law in a given controversy against another ICC/IP, but not the applicable law for each and every kind of ICC/IP controversy even against an opposing non-ICC/IP.

In *San Miguel Corporation v. NLRC*,[40] we delineated the jurisdiction of the Labor Arbiter and the NLRC, specifically paragraph 3 thereof, as all money claims of workers, limited to "cases arising from employer-employee relations." The same clause was not expressly carried over, in printer's ink, in Article 217 as it exists today but the Court ruled that such was a limitation on the jurisdiction of the Labor Arbiter and the NLRC, thus:

> The jurisdiction of Labor Arbiters and the National Labor Relations Commission is outlined in Article 217 of the Labor Code x x x:
>
> > "ART. 217. *Jurisdiction of Labor Arbiters and the Commission.* - (a) The Labor Arbiters shall have the *original and exclusive jurisdiction* to hear and decide within thirty (30) working days after submission of the case by the parties for decision, the following cases involving all workers, whether agricultural or non-agricultural:
> >
> > 1. Unfair labor practice cases;
> >
> > 2. Those that workers may file involving wages, hours of work and other terms and conditions of employment;

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40 244 Phil. 741, 746-748 (1998).

> 3. *All money claims of workers, including those based on non-payment or underpayment of wages, overtime compensation, separation pay and other benefits provided by law or appropriate agreement,* except claims for employees' compensation, social security, medicare and maternity benefits;
>
> 4. Cases involving household services; and
>
> 5. Cases arising from any violation of Article 265 of this Code, including questions involving the legality of strikes and lockouts.
>
> (b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters."

While paragraph 3 above refers to "all money claims of workers," **it is not necessary to suppose that the entire universe of money claims that might be asserted by workers against their employers has been absorbed into the original and exclusive jurisdiction of Labor Arbiters.** In the first place, paragraph 3 should not [be] read not in isolation from but rather within the context formed by paragraph 1 (relating to unfair labor practices), paragraph 2 (relating to claims concerning terms and conditions of employment), paragraph 4 (claims relating to household services, a particular species of employer-employee relations), and paragraph 5 (relating to certain activities prohibited to employees or to employers). It is evident that there is a unifying element which runs through paragraphs 1 to 5 and that is, that they all refer to cases or disputes arising out of or in connection with an employer-employee relationship. This is, in other words, a situation where the rule of *noscitur a sociis* may be [used] in clarifying the scope of paragraph 3, and any other paragraph of Article 217 of the Labor Code, as amended. We reach the above conclusion from an examination of the terms themselves of Article 217, as last amended by B.P. Blg. 227, and even though earlier versions of Article 217 of the Labor Code expressly brought within the jurisdiction of the Labor Arbiters and the NLRC "cases arising from employer-employee relations," which clause was not expressly carried over, in printer's ink, in Article 217 as it exists today. For it cannot be presumed that money claims of workers which do not arise out of or in connection with their employer-employee relationship, and which would therefore fall within the general jurisdiction of the regular courts of justice, were intended by the legislative authority to be taken away from the jurisdiction of the courts and lodged with Labor Arbiters on an exclusive basis. The court, therefore, believes and so holds that the "money claims of workers" referred to in paragraph 3 of Article 217 embraces money claims which arise out of or in connection with the employer-employee relationship, or some aspect or incident of such relationship. Put a little differently, that money claims of workers which

> now fall within the original and exclusive jurisdiction of Labor Arbiters are those money claims which have some reasonable causal connection with the employer-employee relationship.

Clearly, the phraseology of "**all** claims and disputes involving rights of ICCs/IPs" does not necessarily grant the NCIP all-encompassing jurisdiction whenever the case involves rights of ICCs/IPs without regard to the status of the parties, *i.e,* whether the opposing parties are both ICCs/IPs.

In *Union Glass & Container Corp., et al. v. SEC, et al.,*[41] we learned to view the bestowal of jurisdiction in the light of the nature and the function of the adjudicative body that was granted jurisdiction, thus:

> This grant of jurisdiction must be viewed in the light of the nature and function of the SEC under the law. Section 4 of PD No. 902-A confers upon the latter "absolute jurisdiction, supervision and control over all corporations, partnerships or associations, who are grantees of primary franchise and/or license or permit issued by the government to operate in the Philippines xxx." The principal function of the SEC is the supervision and control over corporations, partnerships and associations with the end in view that investment in these entities may be encouraged and protected, and their activities pursued for the promotion of economic development.
>
> **It is in aid of this office that the adjudicative power of the SEC must be exercised. Thus the law explicitly specified and delimited its jurisdiction to matters intrinsically connected with the regulation of corporations, partnerships and associations and those dealing with the internal affairs of such corporations, partnerships or associations.**[42]

Drawing a parallel to *Union Glass*,[43] the expertise and competence of the NCIP cover only the implementation and the enforcement of the IPRA and customs and customary law of specific ICCs/IPs; the NCIP does not have competence to determine rights, duties and obligations of non-ICCs/IPs under other laws although such may also involve rights of ICCs/IPs. Consistently, the wording of Section 66 that "the NCIP shall have jurisdiction over all claims and disputes involving rights of ICCs/IPs" plus the proviso necessarily contemplate a limited jurisdiction over cases and disputes between IPs/ICCs.

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41 211 Phil. 222 (1983).
42 Id. at 230.
43 Id.

That NCIP Administrative Circulars[44] expand the jurisdiction of the NCIP as original and exclusive in Sections 5 and 1, respectively of Rule III:

> Jurisdiction of the NCIP. – The NCIP through its Regional Hearing Offices shall exercise jurisdiction over all claims and disputes involving rights of ICCs/IPs and all cases pertaining to the implementation, enforcement, and interpretation of R.A. 8371, including but not limited to the following:
>
> (A.) Original and Exclusive Jurisdiction of the Regional Hearing Office (RHO):
>
> 1.) Cases involving disputes and controversies over ancestral lands/domains of ICCs/IPs;
>
> xxx
>
> 5.) Cases involving violations of the requirement of free and prior and informed consent of ICCs/IPs;
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> xxx
>
> 6.) Actions for enforcement of decisions of ICCs/IPs involving violations of customary laws or desecration of ceremonial sites, sacred places, or rituals;
>
> xxx
>
> 8.) Actions for redemption/reconveyance under Section8(b) of R.A. 8371; and
>
> 9.) Such other cases analogous to the foregoing.

is of no moment. The power of administrative officials to promulgate rules in the implementation of a statute is necessarily limited to what is provided for in the legislative enactment.[45]

It ought to be stressed that the function of promulgating rules and regulations may be legitimately exercised only for the purpose of carrying out the provisions of the law into effect. The administrative regulation must be within the scope and purview of the law.[46] The implementing rules and regulations of a law cannot extend the law or expand its coverage, as the

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44 No.1-03 dated 9 April 2003 and No. 1 dated 9 October 2014.

45 *Land Bank of the Philippines v. Court of Appeals*, G.R. No.118712 and G.R. No.118745, October 6, 1995, 249 SCRA 149, 157-158.

46 Nachura, OUTLINE OF POLITICAL LAW, p. 416.

power to amend or repeal a statute is vested in the legislature. Indeed, administrative issuances must not override, but must remain consistent with the law they seek to apply and implement. They are intended to carry out, not to supplant or to modify, the law.[47]

However, "administrative bodies are allowed, under their power of subordinate legislation, to implement the broad policies laid down in the statute by 'filling in' the details. All that is required is that the regulation does not contradict, but conforms with the standards prescribed by law.[48]

Perforce, in this case, the NCIP's Administrative Circulars' classification of its RHO's jurisdiction as original and exclusive, supplants the general jurisdiction granted by Batas Pambansa Bilang 129 to the trial courts and ultimately, modifies and broadens the scope of the jurisdiction conferred by the IPRA on the NCIP. We cannot sustain such a classification.

As previously adverted to, we are not unaware of *The City Government of Baguio City, et al. v. Atty. Masweng*, *et al.*[49] and similar cases where we made an implicit affirmation of the NCIP's jurisdiction over cases where one of the parties are non-ICCs/IPs. Such holding, however, and all the succeeding exercises of jurisdiction by the NCIP, cannot tie our hands and declare a grant of primary and/or original and exclusive jurisdiction, where there is no such explicit conferment by the IPRA. At best, the limited jurisdiction of the NCIP is concurrent with that of the regular trial courts in the exercise of the latter's general jurisdiction extending to all controversies brought before them within the legal bounds of rights and remedies.[50]

Jurisprudence has held on more than one occasion that in determining which body has jurisdiction over a case, we consider the nature of the question that is the subject of controversy as well as the status or relationship of the parties.[51]

Thus, we examine the pertinent allegations in respondents' petition:

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47 *Commissioner of Internal Revenue v. Court of Appeals*, G.R. No. 108358, 20 January 1995 240 SCRA 368, 372.

48 *The Public Schools District Supervisors Ass'n. v.Hon. De Jesus*, 524 Phil. 366, 386 (2006).

49 Supra note 18.

50 *Feria,* Civil Procedure Annotated, p. 150.

51 *Eristingcol v. Limjoco, Court of Appeals et al.,* 601 Phil. 136, 142 (2009).

4. That [respondents] are members of the Tagbanua Indigenous Cultural Communities in the Calamianes group of islands [in] Coron, Palawan;

5. That Barangay Buenavista, Coron is part of the ancestral domains of the Tagbanuas within Cluster 1 of the Calamianes group of islands;

6. That prior to the enactment of the Indigenous Peoples Rights Act of 1997 (IPRA), they have already filed their claim for the recognition of their ancestral domains with the Department of Environment and Natural Resources under DAO-2-93 and DAO No. 61-91;

7. That because of the enactment of the IPRA, the Provincial Special Task Force on Ancestral Domains (PSTFAD) recommended instead the validation of their proofs and claims with the newly created National Commission on Indigenous Peoples (NCIP) for the corresponding issuance of a Certificate of Ancestral Domains Title (CADT).

8. That Sections 3.1 and 11 of the IPRA provided that the State recognizes the rights of the Indigenous Cultural Communities (ICCs) to our ancestral domains by virtue of their Native Title and that, it was even optional on their part to request for the issuance of a title or CADT;

9. That as such, it was not even required that they have to obtain first a CADT before their rights to their ancestral domains be recognized;

10. That furthermore, their free and prior informed consent (FPIC) are required before any person or entity, whether private or government can enter or undertake any activity within their ancestral domains;

11. That in order to ensure that their rights to FPIC are not violated, Section 59 of the IPRA provides that the NCIP had to issue first a Certification Precondition (CP) that their consent had been elicited first;

12. That their Free and Prior Informed Consent was not elicited by [petitioners] Engr. Ben Lim, RBL Fishing Corporation, Palawan Aquaculture Corporation and Peninsula Shipyard Corporation when they unlawfully entered and occupied portions of their ancestral domains [in] Sitio Makwaw and Sitio Minukbay Buenavista, Coron, Palawan at a time when the IPRA was already operative;

> 13. That the workers of the abovenamed persons had destroyed the houses of [their] tribal members, coerced some to stop from cultivating their lands and had set up houses within the said portions of their ancestral domains;
>
> 14. That the unlawful intrusion and occupation of [petitioners] within the aforesaid portions of their ancestral domains and their violation of the rights of [respondents] to Free and Prior and Informed Consent and the criminal acts committed by [petitioners'] workers had cause (*sic*) incalculable sufferings among [respondents] x x x.[52]

In their petition before the NCIP, respondents alleged: (1) their status as Tagbanuas, claiming representation of the Tagbanua Indigenous Cultural Communities in the Calamianes Group of Islands in Coron, Palawan; (2) the provision in the law which recognizes native title of indigenous cultural communities and indigenous persons; (3) that they have already filed their claim for the recognition of their ancestral domains with the DENR; (4) that they have yet to obtain a Certificate of Ancestral Domain Title (CADT) from the NICP which, under the IPRA, is the agency tasked to validate their claim; (5) the purported violation of petitioners of their rights to free and prior and informed consent; and (6) that petitioners unlawfully intruded and occupied respondents' ancestral domains.

From their allegations in the petition, such call to the fore: (1) respondents' lack of CADT; and (2) the status of petitioners as non-ICCs/IPs and petitioners' apparent ignorance that respondents are IPs, and their claim of ancestral domain over the subject property.

It should be noted that a bare allegation that one is entitled to something is not an allegation but a conclusion.[53] Such allegation adds nothing to the pleading, it being necessary to plead specifically the facts upon which such conclusion is founded.[54] Rule 8 of the Rules of Court, entitled "Manner of Making Allegations in Pleadings" requires in Section 1, as a general rule, for "[e]very pleading [to] contain in a methodical and logical form, a plain, concise and direct statement of the ultimate facts on which the party pleading relies for his claim or defense, as the case may be, omitting the statement of mere evidentiary facts."

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52 *Rollo,* pp. 76-77.

53 *Mathay v. Consolidated Bank & Trust Company*, 157 Phil. 551, 572 (1974).

54 Id. citing 41 Am. Jur., p. 303.

Respondents' status as Tagbanuas, as indigenous persons or members of an indigenous cultural community, is not an ultimate fact from which respondents can anchor the rights they claim to have been violated by petitioners.

In this case, respondents' petition, as written, does not mention ultimate facts that lead to the conclusion that (1) they are Tagbanuas, and (2) they are the representatives of the Tagbanua Indigenous Cultural Community. Neither are there allegations of ultimate facts showing acts or omissions on the part of petitioners which constitute a violation of respondents' rights.

We elucidate.

In this case, respondents allege that prior to the enactment of the IPRA, they have previously applied for recognition of their ancestral domain with the DENR under DENR Administrative Order No. 2-93 and No. 61-91; and with the advent of the IPRA, it was no longer required that they first obtain a CADT. However, *una voce*, they aver that it has been recommended that they validate "their proofs and claims" with the NCIP for the issuance of a CADT. The allegation itself goes against respondents' conclusions that they are Tagbanuas.

Such a pronouncement does not contradict the indigenous concept of ownership even without a paper title and that the CADT is merely a formal recognition of native title.[55] This is clear from Section 11 of the IPRA, to wit:

> SEC11. *Recognition of Ancestral Domain Rights.* − The rights of ICCs/IPs to their ancestral domains by virtue of Native Title shall be recognized and respected. Formal recognition, when solicited by ICCs/IPs concerned shall be embodied in a Certificate of Ancestral Domain Title (CADT), which shall recognize the title of the concerned ICCs/IPs over the territories identified and delineated.

And along those lines, we have subsequently held in *Lamsis, et al. v. Dong-e*[56] that:

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55 Separate Opinion of former Chief Justice Reynato S. Puno in *Cruz v. Sec of Environment & Natural Resources*, supra note 34 at 998.

56 648 Phil. 372 (2010)

> The application for issuance of a Certificate of Ancestral Land Title pending before the NCIP is akin to a registration proceeding. It also seeks an official recognition of one's claim to a particular land and is also *in rem*. **The titling of ancestral lands is for the purpose of "officially establishing" one's land as an ancestral land. Just like a registration proceeding, the titling of ancestral lands does not vest ownership upon the applicant but only recognizes ownership that has already vested in the applicant by virtue of his and his predecessor-in-interest's possession of the property since time immemorial**.[57]

Nonetheless, the allegation that respondents are Tagbanuas and that they are representatives of the Tagbanua Indigenous Cultural Communities are conclusions of their status not derived from facts that should have been alleged. Indeed, respondents did not even attempt to factually demonstrate their authority to represent the Tagbanua Indigenous Cultural Community. This is crucial since intra IPs' conflicts and contest for representation are not impossible.

In that regard, Section 3(f) of the IPRA defines "customary laws" as "a body of written and/or unwritten rules, usages, customs and practices traditionally and continually recognized, accepted and observed by respective ICCs/IPs" Section 3(i), on the other hand, refers to "indigenous political structures" consisting of "organizational and cultural leadership systems, institutions, relationships, patterns and processes for decision making and participation, identified by ICCs/IPs such as, but not limited to, Council of Elders, Council of Timuays, Bodong Holders, or any other tribunal or body of similar nature." To establish their status as Tagbanuas or their representation as representatives of Tagbanua Indigenous Cultural Community, respondents, as "plaintiffs" claiming relief under the IPRA, should have alleged the ultimate facts constitutive of their customs, political structures, institutions, decision making processes, and such other indicators of indigenous persons nature distinct and native to them.

Truly, respondents should have asserted their identification through a reduction into facts of the definition and description of an ICC/IP in the IPRA:

> *Indigenous Cultural Communities/Indigenous Peoples* refer to a group of people or homogenous societies identified by self ascription and ascription by others, who have continuously lived as organized

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57 Id. at 393-394.

> community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non indigenous religions and cultures, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains[.][58]

Also, the right of ancestral property requires historical proof which, of course, must proceed from allegations in the petition. As noted in the separate opinion of former Chief Justice Reynato S. Puno in *Cruz v. Sec of Environment & Natural Resources*,[59] the IPRA grants to ICCs/IPs rights over ancestral domains and ancestral lands where land is the central element of the IPs' existence, *viz.*:

> xxx There is no traditional concept of permanent, individual, land ownership. Among the Igorots, ownership of land more accurately applies to the tribal right to use the land or to territorial control. The people are the secondary owners or stewards of the land and that if a member of the tribe ceases to work, he loses his claim of ownership, and the land reverts to the beings of the spirit world who are its true and primary owners. Under the concept of "trusteeship," the right to possess the land does not only belong to the present generation but the future ones as well.
>
> **Customary law on land** rests on the traditional belief that no one owns the land except the gods and spirits, and that those who work the land are its mere stewards. **Customary law has a strong preference for communal ownership,** which could either be ownership by a group of individuals or families who are related by blood or by marriage, or ownership by residents of the same locality who may not be related by blood or marriage. The system of communal ownership under customary laws draws its meaning from the subsistence and highly collectivized mode of economic production. The Kalingas, for instance, who are engaged in team occupation like hunting, foraging for forest products, and swidden farming found it natural that forest areas, swidden farms, orchards, pasture and burial grounds should be communally-owned. For the Kalingas, everybody has a common right to a common economic

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58 Republic Act No. 8371, Sec. 3(h).

59 Supra note 34.

> base. Thus, as a rule, rights and obligations to the land are shared in common.
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> **Although highly bent on communal ownership, customary law on land also sanctions individual ownership**. The residential lots and terrace rice farms are governed by a **limited system of individual ownership**. It is limited because while the individual owner has the right to use and dispose of the property, he does not possess all the rights of an exclusive and full owner as defined under our Civil Code. Under Kalinga customary law, the alienation of individually-owned land is strongly discouraged except in marriage and succession and except to meet sudden financial needs due to sickness, death in the family, or loss of crops. Moreover, and to be alienated should first be offered to a clan-member before any village-member can purchase it, and in no case may land be sold to a non-member of the *ili*.
>
> **Land titles do not exist in the indigenous peoples' economic and social system. The concept of individual land ownership under the civil law is alien to them. Inherently colonial in origin, our national land laws and governmental policies frown upon indigenous claims to ancestral lands. Communal ownership is looked upon as inferior, if not inexistent**.[60]

Under the IPRA, ancestral domains and ancestral lands are two concepts, distinct and different from one another:

> a) *Ancestral Domains.* − Subject to Section 56 hereof, refer to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, *force majeure* or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators;
>
> b) *Ancestral Lands.* − Subject to Section 56 hereof, refers to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or

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60 Id. at 135.

> through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, *force majeure* or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots.[61]

Respondents made no allegation outlining and tracing the history of their indigenous ownership of domain and land.

To further highlight the necessity of respondents' allegation of their status as Tagbanuas is the stewardship concept of property which is most applicable to land among the Philippine IP:[62]

> Land is not an individual item which a man owns for himself and by himself. For he secures the rights to land in two ways: Firstly, as a citizen of the tribe he is entitled to some arable land and building land, and to the use of public pasturage, fishing waters, and wild products. Secondly, in all tribes except those who shift their gardens widely and have an abundance of land, he gets rights from membership of a village and a group of kinsfolk. That is, a man's right to land in the tribal home depends upon his accepting membership of a tribe, with all its obligations. The right of every subject, while he is a subject, is jealously safeguarded.[63]

It is also significant to note that respondents do not identify themselves with other Tagbanuas who have been awarded a Certificate of Ancestral Domain Claim as of 1998.[64]

Palpably, in the factual milieu obtaining herein, the NCIP does not have *ipso facto* jurisdiction over the petition of respondents just by the mere expedient that their petition involves rights of ICCs/IPs.

One other thing jumps out from all the discussions herein: the IPRA does not contain a repeal of Batas Pambansa Bilang 129 limiting the general jurisdiction of the trial courts even as the IPRA purportedly grants the NCIP jurisdiction over "all claims and disputes involving rights of ICCs/IPs."

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61 Id.

62 Agabin, IBP Journal, *The Influence of Philippine Indigenous Law in the Development of New Concepts of Social Justice*, Vol. 36, No. 4, October – December 2011, p. 9.

63 *Max Gluckman*, Politics, Law, and Ritual Society 294 (1965), id.

64 See http://pcij.org/stories/1998/coron.html last visited 14 May 2013.

Section 83 of the IPRA, the repealing clause, only specifies Presidential Decree No. 410, Executive Order Nos. 122B and 122C as expressly repealed. While the same section does state that "all other laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly," such an implied repeal is predicated upon the condition that a substantial and an irreconcilable conflict must be found in existing and prior Acts. The two laws refer to different subject matters, albeit the IPRA includes the jurisdiction of the NCIP. As such, resolution of conflicts between parties who are not both ICCs/IPs may still fall within the general jurisdiction of the regular courts dependent on the allegations in the complaint or petition and the status of the parties.

There is no clear irreconcilable conflict from the investiture of jurisdiction to the NCIP in instances where, among others, all the parties are ICCs/IPs and the claim or dispute involves their rights, and the specific wording of Batasang Pambansa Bilang 129, Sections 19-21[65] on the

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[65] **Section 19.** *Jurisdiction in civil cases.* – Regional Trial Courts shall exercise exclusive original jurisdiction:

> (1) In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;
> (2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (₱20,000.00) or for civil actions in Metro Manila, where such the value exceeds Fifty thousand pesos (₱50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts;
> (3) In all actions in admiralty and maritime jurisdiction where the demand or claim exceeds One hundred thousand pesos (₱100,000.00) or , in Metro Manila, where such demand or claim exceeds Two hundred thousand pesos (₱200,000.00);
> (4) In all matters of probate, both testate and intestate, where the gross value of the estate exceeds One hundred thousand pesos (₱100,000.00) or, in probate matters in Metro Manila, where such gross value exceeds Two hundred thousand pesos (₱200,000.00);
> (5) In all actions involving the contract of marriage and marital relations;
> (6) In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising jurisdiction or any court, tribunal, person or body exercising judicial or quasi-judicial functions;
> (7) In all civil actions and special proceedings falling within the exclusive original jurisdiction of a Juvenile and Domestic Relations Court and of the Courts of Agrarian Relations as now provided by law; and
> (8) In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds One hundred thousand pesos (₱100,000.00) or, in such other abovementioned items exceeds Two hundred thousand pesos (₱200,000.00). (as amended by R.A. No. 7691*)

Section 20. *Jurisdiction in criminal cases.* – Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter.

exclusive and original jurisdiction of the Regional Trial Courts, and Sections 33-35[66] on the exclusive original jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts.

We should not, and cannot, adopt the theory of implied repeal except upon a clear and unequivocal expression of the will of Congress, which is not manifest from the language of Section 66 of the IPRA which, to reiterate: (1) did not use the words "primary" and/or "original and exclusive" to describe the jurisdiction of the NCIP over "all claims and disputes

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Section 21. *Original jurisdiction in other cases.* – Regional Trial Courts shall exercise original jurisdiction:

(1) In the issuance of writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction which may be enforced in any part of their respective regions; and

(2) In actions affecting ambassadors and other public ministers and consuls.

66 **Section 33.** *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in civil cases.* – Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

(1) Exclusive original jurisdiction over civil actions and probate proceedings, testate and intestate, including the grant of provisional remedies in proper cases, where the value of the personal property, estate, or amount of the demand does not exceed One hundred thousand pesos (₱100,000.00) or, in Metro Manila where such personal property, estate, or amount of the demand does not exceed Two hundred thousand pesos (₱200,000.00) exclusive of interest damages of whatever kind, attorney's fees, litigation expenses, and costs, the amount of which must be specifically alleged: Provided, That where there are several claims or causes of action between the same or different parties, embodied in the same complaint, the amount of the demand shall be the totality of the claims in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions;

(2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: Provided, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

(3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (₱20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (₱50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: *Provided,* That value of such property shall be determined by the assessed value of the adjacent lots. *(as amended by R.A. No. 7691)*

Section 34. *Delegated jurisdiction in cadastral and land registration cases.* – Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts may be assigned by the Supreme Court to hear and determine cadastral or land registration cases covering lots where there is no controversy or opposition, or contested lots the (sic) where the value of which does not exceed One hundred thousand pesos (₱100,000.00), such value to be ascertained by the affidavit of the claimant or by agreement of the respective claimants if there are more than one, or from the corresponding tax declaration of the real property. Their decisions in these cases shall be appealable in the same manner as decisions of the Regional Trial Courts. *(as amended by R.A. No. 7691)*

Section 35. *Special jurisdiction in certain cases.* – In the absence of all the Regional Trial Judges in a province or city, any Metropolitan Trial Judge, Municipal Trial Judge, Municipal Circuit Trial Judge may hear and decide petitions for a writ of *habeas corpus* or applications for bail in criminal cases in the province or city where the absent Regional Trial Judges sit.

involving rights of ICCs/IPs" and (2) contained a proviso requiring certification that the parties have exhausted their remedies provided under customary laws.

We are quick to clarify herein that even as we declare that in some instances the regular courts may exercise jurisdiction over cases which involve rights of ICCs/IPs, the governing law for these kinds of disputes necessarily include the IPRA and the rights the law bestows on ICCs/IPs.

All told, we rule that Section 66 of the IPRA, even as it grants jurisdiction to the NCIP over all claims and disputes involving rights of ICCs/IPs, requires that the opposing parties are both ICCs/IPs who have exhausted all their remedies under their customs and customary law before bringing their claim and dispute to the NCIP. The validity of respondents' claim is another matter and a question that we need not answer for the moment. Too, we do not resolve herein the other issues raised by petitioners given that we already declared that the NCIP does not have jurisdiction over the case of respondents against petitioners.

WHEREFORE, the appeal is **GRANTED**. The Decision of the Court of Appeals in CA-G.R. SP No. 98268 dated 26 April 2010 and the Resolution of the National Commission on Indigenous Peoples in RHO 4-01-2006 dated 30 November 2006 are **REVERSED AND SET ASIDE**. The petition in RHO 4-01-2006 is **DISMISSED** for lack of jurisdiction of the National Commission on Indigenous Peoples. Section 1 of NCIP Administrative Circular No. 1, Series of 2014, promulgated on 9 October 2014 declaring the jurisdiction of the Regional Hearing Officer as original and exclusive is declared **VOID** for expanding the law. Respondents may refile their complaint against petitioners in a court of general jurisdiction.

No costs.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice