



Republic of the Philippines
Supreme Court
Manila

EN BANC

**LOLOY UNDURAN,
BARANGAY CAPTAIN ROMEO
PACANA, NESTOR
MACAPAYAG, RUPERTO
DOGIA, JIMMY TALINO,
ERMELITO ANGEL, PETOY
BESTO, VICTORINO ANGEL,
RUEL BOLING, JERMY
ANGEL, BERTING SULOD,
RIO BESTO, BENDIJO
SIMBALAN, and MARK
BRAZIL,**

Petitioners,

- versus -

**RAMON ABERASTURI,
CRISTINA C. LOPEZ, CESAR
LOPEZ JR., DIONISIO A.
LOPEZ, MERCEDES L.
GASTON, AGNES H. LOPEZ,
EUSEBIO S. LOPEZ, JOSE
MARIA S. LOPEZ, ANTON B.
ABERASTURI, MA. RAISSA A.
VELEZ, ZOILO ANTONIO A.
VELEZ, CRISTINA
ABERASTURI, EDUARDO
LOPEZ JR., ROSARIO S.
LOPEZ, JUAN S. LOPEZ,
CESAR ANTHONY R. LOPEZ,
VENANCIO L. GASTON,
ROSEMARIE S. LOPEZ, JAY A.
ASUNCION, NICOLO
ABERASTURI, LISA A.
ASUNCION, INEZ A. VERAY,
HERNAN A. ASUNCION,
ASUNCION LOPEZ, THOMAS A.**

G.R. No. 181284

Present:

**SERENO, C.J.,
CARPIO,*
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,*
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN, and
JARDELEZA, JJ.**

* On official leave.

**VELEZ, LUIS ENRIQUE VELEZ,
ANTONIO H. LOPEZ, CHARLES
H. LOPEZ, ANA L. ZAYCO,
PILAR L. QUIROS, CRISTINA L.
PICAZO, RENATO SANTOS,
GERALDINE AGUIRRE, MARIA
CARMENCITA T. LOPEZ, and as
represented by attorney-in-fact Promulgated:
RAMON ABERASTURI,**

Respondents.

October 20, 2015

x-----*Ramon Aberasturi*-----x

DECISION

PERALTA, J.:

This is a petition for review on *certiorari*¹ assailing the Decision² dated August 17, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 00204-MIN, and the Resolution³ dated July 4, 2007, which denied petitioners' motion for reconsideration.

Petitioners, except for Mark Brazil and Nestor Macapayag, are members of the Mirayon, Lapok, Lirongan, Talaandig Tribal Association (*MILALITTRA*), or Talaandig tribe, who claimed to have been living since birth on the land located at *Barangay* Mirayon, Talakag, Bukidnon, Mindanao, which they inherited from their forefathers.

On the other hand, respondents, represented by attorney-in-fact Ramon Aberasturi, claimed to be the lawful owners and possessor of an unregistered parcel of agricultural land (Lot No. 7367 Cad 630-D), with an area of 105.7361 hectares, which appears to be located within the ancestral domain of the Talaandig tribe.

On March 3, 2004, respondents filed a Petition for *Accion Reivindicatoria*, with Prayer for the Issuance of a Temporary Restraining Order or Preliminary Prohibitory Injunction with Damages⁴ (*original complaint for accion reivindicatoria*) against petitioners before the Regional Trial Court of Manolo Fortich, Bukidnon (*RTC*). Docketed as Civil Case No. 04-03-01, the petition was raffled off to Branch 11.

¹ *Rollo*, pp. 21-50.

² Penned by Associate Justice Rodrigo F. Lim Jr., with Associate Justices Teresita Dy-Liacco Flores and Sixto Marella Jr., concurring; *rollo*, pp. 56-68.

³ *Rollo*, pp. 11-13.

⁴ *CA rollo*, pp. 29-42.

On March 20, 2004, petitioners Macapayag and Brazil filed their Answer, alleging that respondents have no cause of action against them.

On March 23, 2004, the rest of the petitioners filed their Motion to Dismiss, alleging that the RTC had no jurisdiction over the case. Petitioners alleged that with the advent of Republic Act No. (RA) 8371, otherwise known as the Indigenous Peoples' Rights Act (IPRA), they, together with the rest of the tribe members, assisted the National Commission on Indigenous Peoples (NCIP) in the processing, validation, and delineation of their Ancestral Domain claim in May 2003. On July 25, 2003, Certificate of Ancestral Domain Title (CADT) No. R-10-TAL-0703-0010 was issued by virtue of NCIP *En Banc* Resolution No. 08-02003 to the Talaandig tribe over its ancestral domain in Talakag, Bukidnon, containing an area of 11,105.5657 hectares. On October 30, 2003, President Gloria Macapagal Arroyo awarded the said CADT to the Talaandig tribe. As awardees of a CADT, petitioners argued that NCIP has exclusive and original jurisdiction over the case, as the subject matter concerns a dispute and controversy over an ancestral land/domain of Indigenous Cultural Communities (ICCs)/Indigenous Peoples (IPs).

On July 1, 2004, the NCIP through Atty. Melanie Pimentel, filed a Motion to Refer the Case to the Regional Hearing Office-National Commission on Indigenous Peoples (RHO-NCIP), alleging that the RTC had no jurisdiction over the subject matter.

On July 5, 2004, respondents filed a Motion to Amend and Supplement Complaint from *Accion Reivindicatoria* to one for "Injunction, Damages, and Other Relief," with the attached Amended and Supplemental Complaint⁵ (*amended complaint for injunction*). On July 30, 2004, petitioners filed an Opposition thereto.

On August 1, 2004, petitioners filed a Motion to Dismiss the Amended and Supplemental Complaint, alleging that the RTC had no jurisdiction over the subject matter of the case and to issue a writ of injunction therein.

On August 10, 2004, the RTC issued an Order granting the Motion to Amend and Supplement Complaint, and declared petitioners' Motion to Refer the Case to the RHO-NCIP and Motion to Dismiss moot and academic as a consequence of the grant of the said motion to amend and supplement complaint.

⁵ *Id.* at 74-80.

On August 17, 2004, petitioners filed a Manifestation praying for an ocular inspection of the disputed land to determine the last, actual, peaceable, uncontested status of the area.

On August 25, 2004, petitioners filed another Motion to Refer the Case to the RHO-NCIP and Motion to Dismiss the Amended Complaint.

On September 14, 2004, respondents filed their Opposition and Motion for Judgment by Default.

On February 14, 2005, the RTC issued an Order⁶ resolving all pending incidents before it, the dispositive portion of which reads:

WHEREFORE, premises considered, defendant's [herein petitioners'] motion to refer the case to the RHO-NCIP and its manifestation for an ocular inspection are hereby denied for being bereft of merit. Further, defendants [petitioners], except Macapayag and Brazil, are hereby declared in default for their failure to file their Answer to the Amended Complaint. Accordingly, let this case, as against defendants Macapayag and Brazil, be called for pre-trial and *ex-parte* presentation of evidence as against the rest of defendants [petitioners] on **May 2, 2005 at 9:00 o'clock in the morning**. Furthermore, the injunctive writ prayed for by the plaintiffs is hereby GRANTED for being meritorious. Accordingly, defendants [petitioners], their agents and privies, or any other or all persons acting for and in their behalves, are hereby ordered to observe, maintain and preserve the *status quo* subject of the action and/or the relation between the parties in order to protect the rights of the plaintiffs while the case is pending in court and to cease and desist from performing any acts that in one way or another contravene the tenor of this order, while awaiting final determination of the instant suit or until further orders of this court. Furthermore, to answer for whatever damage that defendants [petitioners] may sustain by reason of this injunction order if the court should finally decide that plaintiffs [respondents] are not entitled to the relief it prayed for, plaintiffs [respondents] are hereby directed to put up a bond in the amount of ONE HUNDRED THOUSAND PESOS (₱100,000.00) executed in favor of the party enjoined.

SO ORDERED.⁷

On April 12, 2005, petitioners filed before the Court of Appeals a Petition for *Certiorari* and Prohibition with Prayer for Preliminary Injunction and Issuance of a Temporary Restraining Order.

⁶ *Id.* at 25-28.

⁷ *Id.* at 28.

On August 17, 2006, the CA rendered a Decision affirming the RTC's February 14, 2005 Order, which in turn denied the referral of the case to the NCIP, the dispositive portion of which states:

WHEREFORE, in view of the foregoing, the petition is hereby partly GRANTED. The assailed Order dated February 14, 2005 is hereby AFFIRMED with MODIFICATION that the order of default against petitioners, except Macapayag and Brazil, is hereby LIFTED.

SO ORDERED.⁸

The CA ruled that the RTC correctly granted the amendment of the complaint and properly refused to refer the case to the RHO-NCIP. Based on the allegations of both original complaint [*accion reivindicatoria*] and amended complaint [injunction], the CA found that the subject matter of both complaints is well within the jurisdiction of the RTC. The CA noted that the only substantial amendment made was with regard to the nature of the action which originally was one of *accion reivindicatoria* and then changed to one for damages. And except for some amendments as to petitioners' alleged violent acts and the prayer for declaration of their title to the subject property, the rest of the amended complaint was basically the same as the original one, including the reliefs prayed for by respondents. Anent the writ of preliminary injunction, the CA held that the RTC's assailed February 14, 2005 Order is self-explanatory as to why the issuance of the same was proper considering the circumstances of the case.

On July 4, 2007, the CA denied petitioners' motion for reconsideration of its August 17, 2006 Decision.

Hence, this appeal on *certiorari* raising the following issues:

I. THE COURT OF APPEALS ERRED IN AFFIRMING THE JURISDICTION OF THE COURT A *QUO* OVER A COMPLAINT FOR INJUNCTION INVOLVING AN ANCESTRAL DOMAIN OF THE TALAANDIGS.

II. THE COURT OF APPEALS ERRED IN AFFIRMING THE RESOLUTION OF THE COURT A *QUO* ALLOWING THE AMENDMENT OF THE COMPLAINT, THE SOLE PURPOSE OF WHICH IS TO CONFER JURISDICTION ON THE LOWER COURT.

III. THE COURT OF APPEALS ERRED IN RESOLVING THAT EVIDENCE MUST BE PRESENTED BEFORE THE REGIONAL TRIAL COURT WHEN IN THE ORIGINAL ACTION FOR SPECIAL CIVIL

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Id. at 348.

ACTION FOR *CERTIORARI* BEFORE IT, THE COURT A *QUO* HAS ADMITTED THAT A CADT WAS ISSUED IN FAVOR OF PETITIONERS.⁹

On the first issue, petitioners contend that the RTC has no jurisdiction over Civil Case No. 04-03-0 for Injunction, Damages and other Relief, because the 105.7361-hectare land claimed by respondents is undisputedly within the ancestral domain of the Talaandig tribe over which a CADT has already been issued. Petitioners insist that, even granting that the case is purely a personal action, the NCIP has exclusive and original jurisdiction over it as it concerns a claim and dispute involving rights of ICCs/IPs over their ancestral domain.

On the second issue, petitioners argue that the amendment of the complaint from *accion reivindicatoria* to injunction with damages was clearly meant to oust the NCIP of its jurisdiction over the case and confer it on the RTC by concealing the real issue in the case, which is the parties' conflicting claims over the 105.7361-hectare land in Miarayon, Talakag Bukidnon. According to petitioners, the cause of action in the complaint for *accion reivindicatoria* is the claim of ownership and recovery of possession of the said land which is undisputedly found within the Talaandig tribe's ancestral domain covered by CADT No. R10-TAL-0703-0010; hence, a claim within the exclusive and original jurisdiction of the NCIP. Petitioners contend that respondents amended the complaint to one for injunction to downplay the real issue which is the dispute over a land that is within the Talaandig tribe's ancestral domain, and mainly capitalized on the acts complained of, such as harassment, threats, acts of terrorism, among others, supposedly committed against respondents.

On the third issue, petitioners fault the CA in ruling that whether the complaint is one for Injunction or *Accion Reivindicatoria*, the RTC has jurisdiction because nowhere in respondents' original and amended complaints is it stated that petitioners were members of the ICCs or IPs and that the disputed property was part of their ancestral domain. Petitioners take exception to the rule that jurisdiction over the subject matter is determined by the allegations of the complaint, as strict adherence thereto would open the floodgates to the unscrupulous practice of litigants divesting the NCIP of jurisdiction by crafting their complaints in such a way as would confer jurisdiction on their court of choice. Petitioners contend that the literal averments of the complaint are not determinative of the jurisdiction over the subject matter where the actual issues are evidenced by subsequent pleadings; in certain cases, the real nature and character of the pleadings and issues are not merely found in the complaint, but also in the subsequent pleadings submitted by both parties. Petitioners stress that although the

⁹ *Id.* at 433.

complaint banners the subject matter as one for injunction, the pleadings of respondents show that the subject matter is the conflicting ownership claims over the land. In fact, petitioners point out that the records of the case show that various pieces of evidence have been presented to prove that the dispute involves conflicting claims over a land covered by a CADT.

For their part, respondents contend that petitioners do not have legal capacity or standing and *locus standi* to file this petition, since they failed to make *prima facie* showing that they are members of IPs/ICCs, or that they were authorized to represent the Talaandig tribe. Respondents insist that based on the allegations in their amended complaint for injunction and damages, the RTC has jurisdiction over the subject matter which is a purely personal action and incapable of pecuniary estimation. Respondents assert that the real issue is whether or not petitioners are guilty of wrongful acts of violence, terrorism, destruction, intimidation, harassment, etc., to justify a permanent injunction and hold the latter liable for damages. Respondents also point out that petitioners cannot invoke protection under the IPRA 8731, because the conflict does not involve an ancestral domain and they (respondents) are not IPs so the condition precedent before bringing a dispute before the NCIP cannot be satisfied, *i.e.*, exhaustion of remedies under customary laws by the parties.

The petition has no merit.

On the procedural issue raised by respondents, the Court disagrees with their contention that petitioners do not have legal capacity or standing and *locus standi* to file the petition, for failure to show that they are members of IPs/ICCs, or that they are authorized to represent the Talaandig tribe.

Locus standi is defined as a right of appearance in a court of justice on a given question. In private suits, standing is governed by the “real parties in interest” rule found in Section 2,¹⁰ Rule 3 of the Rules of Court. Such concept of real party-in-interest is adapted in Section 2,¹¹ Rule VI of the 2014 Revised Rules of Procedure before the NCIP. That petitioners are the

¹⁰ SEC. 2. *Parties-in-Interest*. - A real party-in-interest is the party who stands to be benefitted or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

¹¹ Administrative Circular No. 1, Series of 2014, Rule VI, Section 2. *Real Party-in-Interest*. - Every case must be prosecuted and defended in the name of the real party in interest who shall sue as “plaintiff” or “petitioner”. The person being sued shall be referred to as “defendant” or “respondent.”

In actions involving general interest, the real party-in-interest shall be the ICCs/IPs or person/s authorized, through a community resolution, by majority of the ICCs/IPs in the community to represent them.

A “real party-in-interest,” as provided in Section 2, Rule 3, of the Revised Rules of Court, and adapted herein, is the party who stands to be benefitted or injured by the judgment in the suit, or the party entitled to the avails of the suit.

real parties in interest can be gleaned from the Entry of Appearance with Motion to Refer the Case to the Regional Hearing Office of the NCIP¹² filed by the NCIP Special Transition Team-Quick Response Unit (STRAT-QRU). The STRAT-QRU counsels alleged therein that the respondents' complaint for recovery of ownership (*accion reivindicatoria*) sought to recover an unregistered real property situated in Miarayon, Bukidnon, from petitioners, all of whom are, with the exception of Nestor Macapayag and Mark Brazil, member-beneficiaries of CADT No. R10-TAL-0703-0010 issued by the NCIP in the name of the Talaandig Indigenous Peoples, located at Talakag, Province of Bukidnon. In support of their allegation, petitioners presented a certification¹³ that the disputed land is within the area covered by the same CADT, and the NCIP List of Beneficiaries of Talaandig Ancestral Domain of Miarayon, Lirongan, Lapok, San Miguel, Talakag, Bukidnon.¹⁴ In contrast, respondents failed to submit any evidence to dispute petitioners' claim that they are members of the Talaandig Tribe. Hence, respondents' contention that petitioners have no legal standing to file the petition, is without merit.

In resolving the pivotal issue of which between the RTC and the NCIP has jurisdiction over the respondents' amended complaint, foremost in the Court's mind is the principle in "that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. The averments in the complaint and the character of the relief sought are the ones to be consulted. Once vested by the allegations in the complaint, jurisdiction also remains vested irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein."¹⁵

Under Section 19 of B.P. 129, as amended (Judiciary Reorganization Act of 1980), the RTC shall exercise exclusive original jurisdiction in all civil actions in which the subject of the litigation is incapable of pecuniary estimation, and in all civil actions which involve title to, possession of, real property or any interest therein where the assessed value of the property or interest therein exceeds Twenty Thousand Pesos (₱20,000.00) or, in civil actions in Metro Manila, where such assessed value exceeds Fifty Thousand Pesos (₱50,000.00).

¹² CA *rollo*, pp. 65-71.

¹³ Records, p. 262.

¹⁴ CA *rollo*, pp. 179-204.

¹⁵ *Padlan v. Dinglasan*, G.R. No. 180321, March 20, 2013, 694 SCRA 91, 98.

On the other hand, the NCIP's jurisdiction is defined under Section 66 of the IPRA as follows:

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 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.¹⁶

On the matter of NCIP's jurisdiction and of procedures for enforcement of rights, NCIP Administrative Order No. 1, 1998, the Implementing Rules and Regulations (*NCIP-IRR*) of the IPRA, Rule IX, Section 1 states:

Section 1. *Primacy of Customary Law.* - All conflicts related to the ancestral domain and lands, involving ICCs/IPs, such as but not limited to the conflicting claims and boundary disputes, shall be resolved by the concerned parties through the application of customary laws in the area where the disputed ancestral domain or land is located.

All conflicts related to the ancestral domain or lands where one of the parties is non-ICC/IP or where the dispute could not be resolved through customary law shall be heard and adjudicated in accordance with the Rules on Pleadings, Practice and Procedure before the NCIP to be adopted hereafter.

All decisions of the NCIP may be brought on Appeal by Petition for Review to the Court of Appeals within fifteen (15) days from receipt of the Order or Decision.¹⁷

In line with Section 69 of the IPRA on the NCIP's quasi-judicial power to promulgate rules and regulations governing the hearing and disposition of cases filed before it, the NCIP issued Administrative Circular No. 1-03 dated April 9, 2003, known as the Rules on Pleadings, Practice and Procedure (*NCIP Rules*), which reiterates its jurisdiction over claims and disputes involving rights of ICCs/IPs and enumerates the actions that may be brought before it. Section 5, Rule III, of the NCIP Rules provides for the jurisdiction of the NCIP-RHO:

Sec. 5. *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

¹⁶ Emphasis added.

¹⁷ *Id.*

implementation, enforcement, and interpretation of the IPRA 8371, including but not limited to the following:

(1) Original and Exclusive Jurisdiction of the Regional Hearing Officer (RHO):

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

b. Cases involving violations of the requirement of free and prior and informed consent of ICC/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 Section 8(b) of R.A. 8371; and

e. Such other cases analogous to the foregoing.

(2) Original jurisdiction of the Regional Hearing Officer:

a. Cases affecting property rights, claims of ownership, hereditary succession, and settlement of land disputes, between and among ICCs/IPs that have not been settled under customary laws; and

b. Actions for damages arising out of any violation of Republic Act No. 8371;

(3) Exclusive and Original Jurisdiction of the Commission:

a. Petition for cancellation of Certificate of Ancestral Domain Titles/Certificate of Ancestral Land Titles (CADTs/CALTs) alleged to have been fraudulently acquired by, and issued to, any person or community as provided for under Section 54 of R.A. 8371. Provided that such action is filed within one (1) year from the date of registration.

Anent the condition precedent to the filing of a petition with the NCIP under Section 66 of the IPRA, Sections 13 and 14, Rule IV of the NCIP Rules pertinently provide:

Section 13. *Certification to File Action.* - Upon the request of the proper party, members of the indigenous dispute settlement group or council of elders shall likewise issue a certification to file action before the NCIP. In giving due regard to customary laws, the certification may be in any form so long as it states in substance the failure of settlement notwithstanding the efforts made under customary law or traditional practices.

Section 14. *Exceptions.* - The certification shall not be required in the following cases:

a. Where one of the parties is 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;

b. Where one of the parties is non-IP/ICC or does not belong to the same IP/IC Community, except when he voluntarily submits to the jurisdiction of the Council of Elders/Leaders;

c. Where the relief sought for in the complaint or petition seeks to prevent any grave, imminent and irreparable damage or injury that may result if not acted upon immediately; and

d. Where the Council of Elders/Leaders refuse to issue the necessary certification without justifiable reasons.¹⁸

Having spelled out the jurisdictions conferred by law to the RTC and the NCIP over the subject matters of their respective cases, the Court now examines the allegations in the original and amended complaints to find out which tribunal may properly exercise jurisdiction over this case.

In their original complaint for *accion reivindicatoria*, respondents traced the provenance of their title over said land to one Mamerto Decano, a Chieftain of Talaandig tribe, by virtue of a Deed of Sale executed on July 27, 1957. They averred that, together with their predecessor-in-interest, they have religiously paid the real estate taxes thereon since 1957 and that they have been in physical, actual, open, prior, notorious, continuous, public and adverse possession of said land in the concept of owners for more than 50 years, even prior to June 12, 1945. They alleged that said land was declared alienable and disposable since August 3, 1927 per certification of the Department of Environment and Natural Resources. They claimed that by means of fraud, stealth and surreptitious means, petitioners entered the said land, without permission and against the consent of the landowners, caused damages therein and harassed respondents by indiscriminately firing upon their farm workers. They added that petitioners continue such harassment by means of armed men frequenting the campsite and firing M-16 rifles at them during nighttime, causing great fear and threat.

Respondents prayed before the RTC for the following reliefs, among others: (1) to cause the preliminary injunction to be made permanent for the respondents to enjoy possession of their property, free from threats of physical harm, harassment and undue obstruction caused by petitioners; (2) to order petitioners to respect and not to harass, intimidate and cause trouble to the prior possession of respondents as the owners by virtue of right of title; (3) to order petitioners to pay moral and exemplary damages, attorney's

¹⁸ *Id.*

fees, appearance fees and costs of suit; and (4) to declare respondents' title as having become a vested right, and as such entitled to all right and incident of an absolute owner.

In their amended complaint for injunction and damages, on the other hand, respondents further alleged that sometime in November 2003, petitioners harassed, intimidated, threatened, and fired high-powered rifles upon respondents' farm workers to drive them away from the land, without legal or justifiable reason. They added that, despite having hired private security guards to secure and protect their property, these violent incidents were followed by more acts of violence, lawlessness, harassment, terrorism to drive away respondents from the land which they claim to lawfully own and possess.

Respondents prayed before the RTC for the following reliefs: (1) to order petitioners and their representatives, to stop and refrain from committing acts of violence, destruction, assault and other forms of lawlessness and terrorism against respondents, and to maintain the peaceful possession and enjoyment of the 105-hectare land by respondents as an attribute of ownership; (2) to declare petitioners to have committed acts of violence, harassment, intimidation, destruction, assault and other forms of lawlessness against respondents, and to permanently order petitioners to stop and refrain from committing similar acts; and (3) to hold petitioners jointly and severally liable to pay respondents actual damages, moral damages, exemplary damages, attorney's fees, litigation expenses and treble costs.

After a perusal of the allegations and prayers in both original and amended complaints, the Court notes that respondents neither alleged therein that the parties are members of ICCs/IPs nor that the case involves a dispute or controversy over ancestral lands/domains of ICC/IPs. Rather, the allegations in respondents' original complaint make up for an *accion reivindicatoria*, a civil action which involves an interest in a real property with an assessed value of ₱683,760.00, while the allegations in their amended complaint make out a case for injunction, a civil action which is incapable of pecuniary estimation. The Court therefore finds that the CA correctly ruled that the subject matter of the amended complaint based on allegations therein was within the jurisdiction of the RTC.

Meanwhile, contrary to petitioners' contention, the mere fact that this case involves members of ICCs/IPs and their ancestral land is not enough to for it to fall under the jurisdiction of the NCIP under Section 66 of the IPRA, to wit:

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 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.

A careful review of Section 66 shows that the NCIP shall have jurisdiction over claims and disputes involving rights of ICCs/IPs only when they arise between or among parties belonging to the same ICC/IP. This can be gathered from the qualifying provision 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.”

The qualifying provision requires two conditions before such disputes may be brought before the NCIP, namely: (1) exhaustion of remedies under customary laws of the parties, and (2) compliance with condition precedent through the said certification by the Council of Elders/Leaders. This is in recognition of the rights of ICCs/IPs to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms and other customary laws and practices within their respective communities, as may be compatible with the national legal system and with internationally recognized human rights.¹⁹

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. From this restrictive definition, it can be gleaned that it is only when both parties to a case belong to the same ICC/IP that the abovesaid two conditions can be complied with. If the parties to a case belong to different ICCs/IPs which are recognized to have their own separate and distinct customary laws and Council of Elders/Leaders, they will fail to meet the abovesaid two conditions. The same holds true if one of such parties was a non-ICC/IP member who is neither bound by customary laws as contemplated by the IPRA nor governed by such council. Indeed, it would be violative of the principles of fair play and due process for those parties who do not belong to the same ICC/IP to be subjected to its customary laws and Council of Elders/Leaders.

¹⁹ IPRA, Sec. 15.

Therefore, pursuant to Section 66 of the IPRA, the NCIP shall have jurisdiction over claims and disputes involving rights of ICCs/IPs only when they arise between or among parties belonging to the same ICC/IP. When such claims and disputes arise between or among parties who do not belong to the same ICC/IP, *i.e.*, parties belonging to different ICC/IPs or where one of the parties is a non-ICC/IP, the case shall fall under the jurisdiction of the proper Courts of Justice, instead of the NCIP. In this case, while most of the petitioners belong to Talaandig Tribe, respondents do not belong to the same ICC/IP. Thus, even if the real issue involves a dispute over land which appear to be located within the ancestral domain of the Talaandig Tribe, it is not the NCIP but the RTC which shall have the power to hear, try and decide this case.

There are, however, exceptional cases where the NCIP shall still have jurisdiction over such claims and disputes even if the parties involved do not belong to the same ICC/IP, *viz.*:

1. Cases under Sections 52 and 62 of the IPRA which contemplate a situation where a dispute over an ancestral domain involving parties who do not belong to the same, but to different ICCs/IPs, to wit:

SECTION 52. *Delineation Process.* — The identification and delineation of ancestral domains shall be done in accordance with the following procedures:

x x x x

h) Endorsement to NCIP. — Within fifteen (15) days from publication, and of the inspection process, the Ancestral Domains Office shall prepare a report to the NCIP endorsing a favorable action upon a claim that is deemed to have sufficient proof. However, if the proof is deemed insufficient, the Ancestral Domains Office shall require the submission of additional evidence: Provided, That the Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification: Provided, further, That in case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP: **Provided, furthermore, That in cases where there are conflicting claims among ICCs/IPs on the boundaries of ancestral domain claims, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to the section below.**

x x x x

SECTION 62. *Resolution of Conflicts.* — In cases of conflicting interest, where there are adverse claims within the ancestral domains as delineated in the survey plan, and which can not be resolved, **the NCIP shall hear and decide, after notice to the proper parties, the disputes**

arising from the delineation of such ancestral domains: Provided, That if the dispute is between and/or among ICCs/IPs regarding the traditional boundaries of their respective ancestral domains, customary process shall be followed. The NCIP shall promulgate the necessary rules and regulations to carry out its adjudicatory functions: Provided, further, That any decision, order, award or ruling of the NCIP on any ancestral domain dispute or on any matter pertaining to the application, implementation, enforcement and interpretation of this Act may be brought for Petition for Review to the Court of Appeals within fifteen (15) days from receipt of a copy thereof.²⁰

2. Cases under Section 54 of the IPRA over fraudulent claims by parties who are not members of the same ICC/IP, to wit:

SECTION 54. *Fraudulent Claims.* — The Ancestral Domains Office may, upon written request from the ICCs/IPs, review existing claims which have been fraudulently acquired by any person or community. **Any claim found to be fraudulently acquired by, and issued to, any person or community may be cancelled by the NCIP after due notice and hearing of all parties concerned.**²¹

Considering the general rule that the jurisdiction of the NCIP under Section 66 of the IPRA covers only disputes and claims between and among members of the same ICCs/IPs involving their rights under the IPRA, as well as the basic administrative law principle that an administrative rule or regulation must conform, not contradict the provisions of the enabling law,²² the Court declares Rule IX, Section 1 of the IPRA-IRR²³, Rule III, Section 5²⁴ and Rule IV, Sections 13 and 14 of the NCIP Rules²⁵ as null and void

²⁰ Emphasis added.

²¹ *Id.*

²² *Fort Bonifacio Dev't Corp. v. Commissioner on Internal Revenue, et al.*, 617 Phil 358, 369 (2009).

²³ Section 1. *Primacy of Customary Law.* — All conflicts related to the ancestral domain and lands, involving ICCs/IPs, such as but not limited to the conflicting claims and boundary disputes, shall be resolved by the concerned parties through the application of customary laws in the area where the disputed ancestral domain or land is located.

All conflicts related to the ancestral domain or lands where one of the parties is non-ICC/IP or where the dispute could not be resolved through customary law shall be heard and adjudicated in accordance with the Rules on Pleadings, Practice and Procedure before the NCIP to be adopted hereafter.

All decisions of the NCIP may be brought on Appeal by Petition for Review to the Court of Appeals within fifteen (15) days from receipt of the Order or Decision.

²⁴ Sec. 5. *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:

(1) Original and Exclusive Jurisdiction of the Regional Hearing Officer (RHO):

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

b. Cases involving violations of the requirement of free and prior and informed consent of ICC/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 Section 8(b) of R.A. 8371; and

e. Such other cases analogous to the foregoing.

(2) Original jurisdiction of the Regional Hearing Officer:

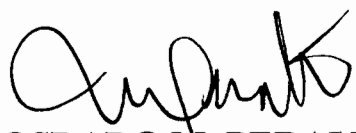
a. Cases affecting property rights, claims of ownership, hereditary succession, and settlement of land disputes, between and among ICCs/IPs that have not been settled under customary laws; and

b. Actions for damages arising out of any violation of Republic Act No. 8371;

insofar as they expand the jurisdiction of the NCIP under Section 66 of the IPRA to include such disputes where the parties do not belong to the same ICC/IP. As the Court held in *Paduran v. DARAB*,²⁶ “[j]urisdiction over a subject matter is conferred by the Constitution or the law and rules of procedure yield to substantive law. Otherwise stated, jurisdiction must exist as a matter of law.²⁷ Only a statute can confer jurisdiction on courts and administrative agencies; rules of procedure cannot.²⁸ In the abovesaid exceptional cases where one of the parties is a non-ICC/IP or does not belong to the same ICC/IP, however, Rule IV, Section 14 of the NCIP Rules validly dispenses with the requirement of certification issued by the Council of Elders/Leaders who participated in the failed attempt to settle the dispute according to the customary laws of the concerned ICC/IP.

WHEREFORE, the petition is **DENIED** and the Court of Appeals Decision dated August 17, 2006, and its Resolution dated July 4, 2007, in CA-G.R. SP No. 00204-MIN, are **AFFIRMED**.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

(3) Exclusive and Original Jurisdiction of the Commission:

a. Petition for cancellation of Certificate of Ancestral Domain Titles/Certificate of Ancestral Land Titles (CADTs/CALTs) alleged to have been fraudulently acquired by, and issued to, any person or community as provided for under Section 54 of R.A. 8371. Provided that such action is filed within one (1) year from the date of registration.

²⁵ Section 13. *Certification to File Action*. – Upon the request of the proper party, members of the indigenous dispute settlement group or council of elders shall likewise issue a certification to file action before the NCIP. In giving due regard to customary laws, the certification may be in any form so long as it states in substance the failure of settlement notwithstanding the efforts made under customary law or traditional practices.

Section 14. Exceptions. The certification shall not be required in the following cases:

a. Where one of the parties is 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;

b. Where one of the parties is non-IP/ICC or does not belong to the same IP/IC Community, except when he voluntarily submits to the jurisdiction of the Council of Elders/Leaders;

c. Where the relief sought for in the complaint or petition seeks to prevent any grave, imminent and irreparable damage or injury that may result if not acted upon immediately; and

d. Where the Council of Elders/Leaders refuse to issue the necessary certification without justifiable reasons.

²⁶ 444 Phil. 213 (2006).

²⁷ *Paduran v. DARAB, supra*, at 223.

²⁸ *Republic of the Philippines v. CA*, 331 Phil. 1070, 1076 (1996).

WE CONCUR:

Maria Lourdes P. A. Sereno

MARIA LOURDES P. A. SERENO
Chief Justice

On official leave
ANTONIO T. CARPIO
Associate Justice

(Pl. see Concurring Opinion)
PRESBITERO J. VELASCO, JR.
Associate Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

See: Separate Opinions
Arturo D. Brion
ARTURO D. BRION
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

On official leave
MARIANO C. DEL CASTILLO
Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
Associate Justice

With a concurring opinion
Jose Portugal Perez
JOSE PORTUGAL PEREZ
Associate Justice

Jose Catral Mendoza
JOSE CATRAL MENDOZA
Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES
Associate Justice
See separate concurring opinion

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

Marvic M.V.F. Leonen
MARVIC M.V.F. LEONEN
Associate Justice

Francis H. Jardeleza
FRANCIS H. JARDELEZA
Associate Justice

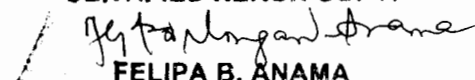
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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

CERTIFIED XEROX COPY:



FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT