Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

THOMAS BEGNAEN,
Petitioner,

- versus -

SPOUSES LEO CALIGTAN and ELMA CALIGTAN,
Respondents.

G.R. No. 189852

Present:

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PERLAS-BERNABE, and
CAGUIOA, *JJ.*

Promulgated:

AUG 1 7 2016

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DECISION

SERENO, *CJ:*

The case at Bench is an opportunity for Us to reaffirm and reemphasize Our ruling in *Lim v Gamosa,*[1] where We struck down as void an administrative rule that expanded the jurisdiction of the National Commission on Indigenous People (NCIP) beyond the boundaries of the Indigenous Peoples' Rights Act (IPRA). In the process, it likewise behooves Us to resolve a question of concurrent jurisdiction and determine the proper tribunal/body to take cognizance of the instant dispute.

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision[2] and Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 104150. The CA reversed and set aside the Decision[4] and Order[5] rendered by the Regional Trial Court (RTC) of Bontoc, Mountain (Mt.) Province, and reinstated the Resolution[6] of the Municipal

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[1] G.R. No. 193964, 2 December 2015.
[2] CA Decision dated 27 February 2009, *rollo,* pp. 23-31. Penned by Associate Justice Bienvenido L. Reyes (now a member of this Court), with Associate Justices Isaias P. Dicdican and Marlene Gonzales-Sison concurring.
[3] CA Resolution dated 28 September 2009, id. at 17-18.
[4] RTC Decision dated 11 March 2008, id. at 32-43. Penned by Presiding Judge Joseph A. Patnaan.
[5] RTC Resolution dated 29 May 2008, id. at 44.
[6] MCTC Resolution dated 6 August 2007, id. at 45-50. Penned by Presiding Judge James P. Kibiten.

Circuit Trial Court (MCTC) of Bauko, Mt. Province. The case concerns an ancestral land dispute between members of an Indigenous Cultural Community (ICC), particularly the Kankanaey Tribe of Mt. Province.

The basic issue is whether or not the CA, in upholding the jurisdiction of the National Commission on Indigenous Peoples (NCIP) over the aforementioned dispute, to the exclusion of regular courts, committed reversible error.

PROCEEDINGS BEFORE THE NCIP-RHO & MCTC

On 3 August 2006, petitioner Thomas Begnaen (Begnaen) filed a Complaint with Prayer for Preliminary Injunction against respondents Spouses Leo and Elma Caligtan (Sps. Caligtan) for "Land Dispute and Enforcement of Rights" before the Regional Hearing Office (RHO) of the NCIP at La Trinidad, Benguet.[7] The RHO thereafter issued an Order[8] dismissing the complaint based on respondents' argument that the case should have gone to the council of elders and not through the Barangay Lupon, as mandated by the Indigenous Peoples' Rights Act (IPRA).[9]

However, instead of abiding by the Order of the RHO, Begnaen filed against the Sps. Caligtan a Complaint for Forcible Entry with a Prayer for a Writ of Preliminary Mandatory Injunction[10] before the Municipal Circuit Trial Court (MCTC) of Bauko-Sabangan, Mt. Province.

Begnaen alleged that he was the owner of a 125 square meter parcel of land situated in Supang, Sabangan, Mt. Province. He claimed that on two occasions,[11] respondents – by using force, intimidation, stealth, and threat – entered a portion of the subject property, hurriedly put up a chicken-wire fence, and started building a shack thereon without Begnaen's knowledge and consent.[12]

Meanwhile, respondents averred that they owned the area in question as part of the land they had purchased from a certain Leona Vicente in 1959 pursuant to age-old customs and traditions. They introduced improvements evidencing their prior physical possession.[13] Respondents further contended that when petitioner's father Alfonso Begnaen (Alfonso) was still alive, he had always respected their boundary wherein a "GIKAD" or old pine tree lumber was buried and recovered. The "GIKAD" established their boundary pursuant to age-old Igorot customs and traditions. To further mark their

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[7] *CA Rollo*, pp. 43-48.
[8] Dated 23 November; id. at 56-57.
[9] Id. at 56.
[10] Dated 18 June 2007, docketed as Civil Case No. 336; id. at 58-62.
[11] Id. at 59; 26 April 2006 and 9 June 2007
[12] Id. at 58-59.
[13] Id. at 65.

boundary, respondents also planted bushes and a mango tree, all of which Alfonso had likewise respected.[14]

MCTC RULING

In its Resolution,[15] the MCTC dismissed the ejectment complaint in favor of respondents. However, this was without prejudice to the filing of a case before the RHO of the NCIP, which the MCTC recognized had primary, original, and exclusive jurisdiction over the matter pursuant to the IPRA. The MCTC further reasoned that the fact that petitioner initially filed a complaint with the NCIP-RHO shows that he recognized the primary jurisdiction of the NCIP.[16] Aggrieved, petitioner-appellant filed an appeal before Regional Trial Court Branch 35 of Bontoc, Mt. Province (RTC).

RTC RULING

In a Decision[17] dated 11 March 2008, the RTC reversed and set aside the Resolution and Order of the MCTC, saying that it was the latter court that had jurisdiction over the case for forcible entry. The RTC reasoned that the provisions of the IPRA pertaining to jurisdiction do not espouse exclusivity and thus cannot divest the MCTC of its jurisdiction over forcible entry and unlawful detainer cases as provided by B.P. Blg. 129. According to the RTC, IPRA must be read to harmonize with B.P. Blg. 129.[18]

Respondent-appellees then moved for a reconsideration of the above Decision, but their motion was denied by the RTC in its Order[19] dated 29 May 2008. Undaunted, respondents appealed to the CA.

CA RULING

In its Decision,[20] the CA reversed and set aside the RTC rulings, and reinstated the Resolution of the MCTC. In upholding the jurisdiction of the NCIP over the present case, the CA ruled that the passage of the IPRA has divested regular courts of their jurisdiction when the parties involved are members of ICCs/IPs and the disputed property forms part of their ancestral land/domain.[21] Petitioner filed a Motion for Reconsideration, but it was denied by the CA in its questioned Resolution.[22]

Hence, this Petition.

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[14] Id. at 66.
[15] *Rollo*, pp. 45-50; penned by Judge James P. Kibiten.
[16] Id. at 50.
[17] Supra note 3.
[18] *Rollo*, p. 41.
[19] Id. at 44.
[20] Supra note 1.
[21] *Rollo*, p. 29.
[22] Supra note 2.

RULING OF THE COURT

The NCIP Rule purporting to establish the jurisdiction of the NCIP-Regional Hearing Officer as original and exclusive has been declared VOID for expanding the law.

In its assailed Decision, the CA reversed the RTC and held that jurisdiction properly lies with the NCIP, to the exclusion of the regular courts. Thus:

> While admittedly forcible entry cases are cognizable by the regular courts pursuant to Section 1, rule 70 of the 1997 Rules of Court and B.P. Blg. 129; nonetheless, with the passage of the IPRA Law (R.A. 8371), it is our considered view that the **regular courts are divested of their jurisdiction when the parties involved therein are the ICCs/IPs and the property in question is an ancestral land.**[23]

R.A. 8371 or the Indigenous Peoples' Rights Act of 1997, particularly Sections 65 and 66 thereof, provide:

> SECTION 65. *Primacy of Customary Laws and Practices.* — **When disputes involve ICCs/IPs, customary laws and practices shall be used to resolve the dispute.**
>
> 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. (Emphasis supplied)

The IPRA confers jurisdiction on the NCIP over "all claims and disputes involving rights of ICCs/IPs," without qualification as to whether such jurisdiction is original and/or exclusive. However, Section 5, Rule III of NCIP Administrative Circular No. 1-03 dated 9 April 2003, known as "The Rules on Pleadings, Practice, and Procedure Before the NCIP" (NCIP Rules), went beyond the provisions of the IPRA to provide:[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:

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[23] *Rollo*, p. 29; emphasis supplied.
[24] Id.

> (1) ***Original and Exclusive Jurisdiction*** *of the* ***Regional Hearing Office (RHO)*:**
>
> a. **Cases involving disputes and controversies over ancestral lands/domains of ICCs/IPs;**
>
> x x x x
>
> (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**; x x x. (Emphases supplied)

During the pendency of these proceedings, the NCIP promulgated Administrative Circular No. 1, Series of 2014, known as "The 2014 Revised Rules of Procedure before the National Commission on Indigenous Peoples"[25] (NCIP Revised Rules). Section 1, Rule III of the NCIP Revised Rules continues to articulate the "original and exclusive" jurisdiction of the NCIP-RHO, thus:

> Section 1. *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 Office (RHO):***
>
> a. Cases involving disputes and controversies over ancestral lands/domains of ICCs/IPs;
>
> x x x x. (Emphasis supplied)

We recently had occasion to scrutinize and categorically rule upon the validity of the foregoing provisions in *Lim,*[26] specifically "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." At the outset, We said:

> (I)n *Unduran, et al. v. Aberasturi, et al.*, 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

[25] Approved 9 October 2014.
[26] Supra note 1.

> defendants therein were not IPs/ICCs, the regular courts had jurisdiction over the complaint in that case.
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> In his concurring opinion in *Unduran*, Justice Jose P. Perez submits that the jurisdiction of the NCIP ought to be definitively drawn to settle doubts that still linger due to the implicit affirmation done in The City Government of Baguio City, et al. v. Atty. Masweng, et al. 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.

After a comprehensive analysis of the classes of jurisdiction, We held that "**the NCIP cannot be said to have even primary jurisdiction over all the ICC/IP cases** x x x. 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.**" Furthermore,

> That NCIP Administrative Circular 44 expands the jurisdiction of the NCIP as original and exclusive in Sections 5 and 1, respectively of Rule III x x x 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.
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> 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. **The implementing rules and regulations of a law cannot extend the law or expand its coverage, as the 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.**
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> x x x x
>
> **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.**
>
> x x x x
>
> **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.** (Emphases supplied)

Thus, We struck down as void the latest iteration of the NCIP rule purporting to confer original and exclusive jurisdiction upon the RHO, contrary to the provisions of the IPRA:

> 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.** x x x. (Emphasis supplied)

In view of the foregoing, We find the CA to have erred in reversing the RTC's findings on the jurisdiction of regular courts and declaring that the NCIP "has **original and exclusive** jurisdiction over the instant case to the exclusion of the regular courts." The appellate court was likewise in error in upholding the NCIP's **primary** 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. To reiterate *Lim*, 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.

Be that as it may, We nevertheless find the MCTC's dismissal of petitioner-appellant's case for forcible entry against respondents-appellees to be warranted.

The NCIP is vested with jurisdiction over (1) the parties, who are all members of the same ICC, and (2) the subject property, which is ancestral land.

Before proceeding to the pivotal issue of which tribunal shall properly take cognizance of the dispute between the parties, We first address the NCIP's jurisdiction over the parties and the subject property.

It is undisputed that the parties are members of ICCs/Indigenous Peoples (IPs).

In point is the Resolution of the MCTC, which states in part:

> On the date set, the parties and their respective lawyers appeared. Instead of immediately hearing the aforesaid prayer, the court, considering that the ***parties are natives of this place (Mountain Province) who belong to the so called groups of Indigenous Peoples/Indigenous Cultural***

> ***Communities of our country***, and that the land subject of this case is also located within this same province, asked the following questions to the parties, to wit:
>
> 1. ***Do they admit that they belong to and are members of the Indigenous Peoples/Indigenous Cultural Communities***?
>
> x x x x
>
> To these questions, ***both parties replied in the affirmative: that indeed, they belong to and are members of the so called group of Indigenous Peoples/Indigenous Cultural Communities*** xxx.[27]

In affirming the MCTC, the CA likewise declared:

> Undeniably, ***both parties herein admitted that they are members of the Indigenous Cultural Communities, particularly the Kankanaey Tribe of Mt. Province*** xxx.[28] (Emphasis supplied)

Since the courts below (the CA and the MCTC) concur that the parties to this case are members of ICCs, particularly the Kankanaey Tribe of Mt. Province, the Court defers to these undisputed factual findings.

On the matter of the subject property, petitioner claims that land that had been purchased by respondents from another cannot become ancestral land, which should have been owned since time immemorial.[29]

We do not agree.

Republic Act No. 8371 (R.A. 8371), otherwise known as the Indigenous Peoples' Rights Act of 1997, specifically governs the rights of indigenous peoples to their ancestral lands and domains.[30]

Section 3(a) and (b) and Section 56 of R.A. 8371 provide for a more comprehensive definition of ancestral domains and ancestral lands:

> SECTION 3. *Definition of Terms.* — For purposes of this Act, the following terms shall mean:
>
> a) *Ancestral Domains* — Subject to Section 56 hereof, refers 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

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[27] Supra note 1, at 45.
[28] Id. at 27.
[29] *Rollo*, p. 11.
[30] *Tanenglian v. Lorenzo*, 573 Phil. 472-502 (2008).

> 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;
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> b) *Ancestral Lands* — Subject to Section 56 hereof, refers to ***lands occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or 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.
>
> SECTION 56. *Existing Property Rights Regimes.* — Property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected.

Indeed, "ancestral lands are lands occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by ***themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership***, continuously, to the present xxx." Thus, the claim of petitioner that when land is purchased, it is no longer within the ambit of ancestral land/domain, is devoid of merit.

It is significant to note that in their Answer, respondents claimed that they owned the area in question as part of the land they ***purchased*** in 1959 "pursuant to ***age-old customs and traditions*** from their relative Leona Vicente."[31] This purchase was well within the rights protected under the IPRA Law or its Rules and Regulations, to wit:

> SECTION 8. *Rights to Ancestral Lands.* — The right of ownership and possession of the ICCs/IPs to their ancestral lands shall be recognized and protected.
>
> a) *Right to transfer land/property.* — Such right shall include the ***right to transfer land or property rights to/among members of the same ICCs/IPs, subject to*** **customary laws and traditions of the community concerned**.[32] (Emphases supplied)

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[31] *Rollo*, p. 57.
[32] R.A. 8371 (Indigenous People's Rights Act of 1997)

PART III

Rights of the ICCs/IPs to Their Ancestral Lands

> SECTION 1. *Right to Transfer Land or Property.* — The various indigenous modes of ***acquisition and transfer of property between and among members of the ICCs/IPs*** shall be recognized as **legal, valid and enforceable**.[33] (Emphases supplied)

Furthermore, when questioned, both parties admitted that the land subject of their dispute and of the case, was ancestral land.[34] This admission was also attested to in respondents' Comment/Opposition to the Petition, which stated that "the petitioner again cannot refute or contradict the fact that as per stipulations/admissions entered into by the parties before the MCTC of Sabangan-Bauko, Mt. Province on 29 June 2007 the parties herein are members of the Indigenous Peoples/ Indigenous Cultural Communities and the land subject of this case is an ancestral land."[35]

Finally, it must be noted this case stemmed from the "Land Dispute and Enforcement of Rights" complaint filed by petitioner-appellant before the NCIP-RHO. When the NCIP-RHO assumed jurisdiction over the case, heard it, and eventually dismissed it without prejudice to its settlement under customary practice, the RHO in effect determined that the property was ancestral land, and that the parties to the dispute must conform to the customary practice of dispute settlement.

The NCIP-RHO, being the agency that first took cognizance of petitioner-appellant's complaint, has jurisdiction over the same to the exclusion of the MCTC.

Even as We squarely ruled on the concurrent jurisdiction of the NCIP and the regular courts in *Lim*, this Court likewise said: "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."[36]

While the doctrine of concurrent jurisdiction means equal jurisdiction to deal with the same subject matter, We have consistently upheld the

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[33]NCIP ADMINISTRATIVE ORDER NO. 01-98 (RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 8371, OTHERWISE KNOWN AS "THE INDIGENOUS PEOPLES' RIGHTS ACT OF 1997")
[34]*Rollo*, p. 45.
[35]Id. at 87.
[36]Supra note 1.

settled rule that **the body or agency that first takes cognizance of the complaint shall exercise jurisdiction to the exclusion of the others.**[37]

Thus, assuming there is concurrent jurisdiction, "**this concurrence is not to be taken as an unrestrained freedom to file the same case before both bodies** or be viewed as a contest between these bodies as to which will first complete the investigation."[38]

In *Department of Justice v. Liwag*,[39] Mary Ong initially filed a complaint-affidavit before the Ombudsman, which was acted upon forthwith. Two weeks later, she executed sworn statements before the National Bureau of Investigation and the Department of Jutsice, alleging the same facts and circumstances. We held that it was the Ombudsman, before whom the complaint was initially filed, that had the authority to proceed with the preliminary investigation to the exclusion of the DOJ. Thus:

> **The subsequent assumption of jurisdiction by the DOJ** in the conduct of preliminary investigation over the cases filed against the respondents **would not promote an orderly administration of justice**.
>
> x x x x
>
> **To allow the same complaint to be filed successively before two or more investigative bodies would promote multiplicity of proceedings. It would also cause undue difficulties to the respondent who would have to appear and defend his position before every agency or body where the same complaint was filed.** This would leave hapless litigants at a loss as to where to appear and plead their cause or defense.
>
> There is yet another undesirable consequence. **There is the distinct possibility that the two bodies exercising jurisdiction at the same time would come up with conflicting resolutions** regarding the guilt of the respondents.
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> Finally, the **second investigation** would entail an **unnecessary expenditure of public funds,** and the use of valuable and limited resources of Government, **in a duplication of proceedings already started with the Ombudsman."** (Emphases supplied)

Similarly, in *Office of the Ombudsman v. Rodriguez*[40], We declared:

> **In administrative cases involving the concurrent jurisdiction of two or more disciplining authorities, the body in which the complaint is filed first, and which opts to take cognizance of the case, acquires jurisdiction to the exclusion of other tribunals exercising concurrent jurisdiction.** In this case, since the complaint was filed first in the Ombudsman, and the Ombudsman opted to assume jurisdiction over the

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[37] *Puse v. Delos Santos-Puse*, G.R. No. 183678 (15 March 2010); *Department of Justice v. Liwag,* G.R. No. 149311 (11 February 2005); *Carlos v. Angeles,* G.R. No. 142907 (29 November 2000).
[38] Id.
[39] Id.
[40] G.R. No. 172700 (23 July 2010).

> complaint, the Ombudsman's exercise of jurisdiction is to the exclusion of the *sangguniang bayan* exercising concurrent jurisdiction.
>
> It is a hornbook rule that jurisdiction is a matter of law. Jurisdiction, once acquired, is not lost upon the instance of the parties but continues until the case is terminated. When herein complainants first filed the complaint in the Ombudsman, jurisdiction was already vested on the latter. Jurisdiction could no longer be transferred to the *sangguniang bayan* by virtue of a subsequent complaint filed by the same complainants. (Emphasis supplied)

It does not escape Our attention that petitioner-appellant first invoked the NCIP's jurisdiction by filing with the RHO his complaint against respondents for "Land Dispute and Enforcement of Rights." The initial filing of the instant case by petitioner-appellant before the NCIP-RHO only showed that he fully recognized the NCIP's jurisdiction over this case.[41] However, when the Complaint was dismissed ***without prejudice*** for failure of petitioner-appellant to first bring the matter for settlement before the Council of Elders as mandated by the IPRA,[42] petitioner-appellant took an altogether different route via the MCTC.

The dismissal was pursuant to Section 9, Rule IV of NCIP Administrative Circular No. 1-03, which dictates that "No case shall be brought before the RHO or the Commission unless the parties have exhausted all remedies provided for under customary laws."[43] By doing so, the NCIP-RHO did not divest itself of its jurisdiction over the case; it merely required compliance with the mandatory settlement proceedings. As aptly observed by the MCTC, the case was dismissed "not on the issue of jurisdiction as (the NCIP-RHO) has rightful jurisdiction over it, but on the ground of non-compliance with a condition sine qua non."[44] However, instead of simply complying with the RHO Order, petitioner-appellant filed a forcible entry case, a complete deviation from customary practice.

Finally, the IPRA's declaration of the primacy of customary laws and practices in resolving disputes between ICCs/IPs is no less significant:

> SECTION 65. *Primacy of Customary Laws and Practices.* — ***When disputes involve ICCs/IPs, customary laws and practices shall be used to resolve the dispute.***

Under the foregoing discussions, We find that jurisdiction remains vested in the NCIP-RHO as the first agency to take cognizance over the case, to the exclusion of the MCTC. We likewise declare petitioner-appellant estopped from belatedly impugning the jurisdiction of the NCIP-RHO after initiating a Complaint before it and receiving an adverse ruling.

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[41] Id. at 30.
[42] Supra note 2, at 28-29.
[43] Id. at 29.
[44] Id. at 49.

Petitioner-appellant is guilty of forum shopping.

Corollarily, and as already recognized by the MCTC in the proceedings below[45], We find petitioner-appellant to have engaged in the deplorable and docket-clogging practice of forum shopping.[46]

On numerous occasions, this Court has held that "a circumstance of forum shopping occurs when, **as a result or in anticipation of an adverse decision in one forum, a party seeks a favorable opinion in another forum through means other than appeal or certiorari by raising identical causes of action, subject matter and issues.** Stated a bit differently, forum shopping is the institution of two or more actions involving the same parties for the same cause of action, either simultaneously or successively, on the supposition that one or the other court would come out with a favorable disposition."[47]

A perusal of the Complaint[48] filed by petitioner-appellant before the MCTC, four months after the NCIP-RHO had dismissed his case without prejudice, reveals no mention whatsoever of the initial NCIP-RHO proceedings. Indeed, the pertinent Verification and Certification[49] of the said pleading reads:

> 4. That I hereby certify that I have not commenced any other action or proceeding involving the same issues in the Supreme Court, Court of Appeals, or any other tribunal or agency and that no other action is pending before the Supreme Court, Court of Appeals, or any other tribunal or agency, and should I learn thereafter that a similar action or proceeding had been filed or is pending before the Supreme Court, Court of Appeals, or any other tribunal or agency, I undertake to report the same within 5 days to the Honorable Court;

Clearly, the non-disclosure of the commencement of the case for "Land Dispute and Enforcement of Rights" previously filed before the NCIP-RHO, constitutes a violation of Section 5, Rule 7 of the Revised Rules of Court against forum shopping:

> **Section 5.** *Certification against forum shopping.* — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) **that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency** and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the

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[45] Id. at 50.
[46] *Brown-Araneta v. Araneta,* G.R. No. 190814 (9 October 2013).
[47] Id., *Stronghold Insurance Co., Inc. v. Sps. Stroem*, G.R.No. 204689 (21 January 2015). Emphasis supplied.
[48] Supra note 10.
[49] Id. at 55.

present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. **The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.** (Emphases supplied)

As We held in *Brown-Araneta v. Araneta*[50], "(t)he evil sought to be avoided by the rule against forum shopping is the rendition by two competent tribunals of two separate and contradictory decisions. Unscrupulous party litigants, taking advantage of a variety of competent tribunals, may repeatedly try their luck in several different fora until a favorable result is reached. To avoid the resultant confusion, the Court adheres to the rules against forum shopping, and a breach of these rules results in the dismissal of the case."

The question as to whether such non-disclosure was willful, deliberate, and ultimately contumacious, is yet to be addressed in a proper proceeding. But for purposes of the matter before Us, the falsity of such Verification and Certification is further ground to uphold the MCTC's dismissal of the Complaint, and ultimately, the dismissal of the instant Petition.

WHEREFORE, the instant Petition for Review is **DENIED**. The Decision of the CA in CA-G.R. SP No. 104150 is hereby **AFFIRMED**.The Decision dated 11 March 2008 and the Order dated 29 May 2008, both rendered by the RTC of Bontoc, Mt. Province, are hereby **REVERSED AND SET ASIDE**; and the Resolution of the MCTC of Bauko, Sabangan, dated 6 August 2007 is **REINSTATED**.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

[50] Supra, note 44.

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
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