

**[NCIP ADMINISTRATIVE CIRCULAR NO. 1, series
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**RULES ON PLEADINGS, PRACTICE AND PROCEDURE BEFORE THE
NATIONAL COMMISSION ON INDIGENOUS PEOPLES**

Pursuant to Sections 44 (o), and 69 (a) of R.A. 8371, otherwise known as "The Indigenous Peoples Rights Act of 1997," the following rules are hereby promulgated for the information and guidance of all concerned.

**RULE I
Preliminary Provisions**

SECTION 1. Title. — These rules shall be known as the "Rules on Pleadings, Practice and Procedure Before the NCIP".

SECTION 2. Scope. — These rules shall govern the hearing and disposition of cases filed before the Regional Hearing Office (RHO) and the National Commission on Indigenous Peoples (NCIP).

SECTION 3. Construction and Rules of Interpretation. — These rules shall be liberally construed to give meaning to the provisions of R.A. 8371. In the interpretation of the provisions hereof, the following shall apply:

- a. All doubts in the interpretation of the provisions of these Rules or any ambiguity in their application shall be resolved in favor of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs);
- b. In applying the provisions of these Rules in relation to other national laws, the integrity of the ancestral domains, culture, values, practices, institutions, customary laws and traditions of the ICCs/IPs, shall be considered and be given due regard;
- c. The primacy of customary laws shall be upheld in resolving disputes involving ICCs/IPs;
- d. In resolving cases, the customary laws, traditions and practices of the ICCs/IPs in the ancestral domain where the conflicts arises shall first be applied with respect to property rights, claims of ownership, hereditary succession and settlement of land disputes.

**RULE II
Definition of Terms**

SECTION 4. Definition of Terms. — The terms and phrases defined under Section 3 (a) to (p) of R.A. 8371 shall be given the same meanings when used herein and in addition thereto:

(a) **NCIP/Commission.** The terms NCIP and Commission for purposes of these rules shall be used interchangeably and shall mean the National Commission on Indigenous Peoples acting as a quasi-judicial body; and

(b) **Regional Hearing Officer/RHO** — The term Regional Hearing Officer refers to the duly appointed or officially designated as Regional Hearing Officer by the head of the agency authorized to hear and decide cases filed before it in accordance with these rules.

RULE III

Jurisdiction

SECTION 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 RHO:

- 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 Section 8(b) of R.A. 8371; and
- e. Such other cases analogous to the foregoing.

(2) Original Jurisdiction of the Regional Hearing Office:

- 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.

SECTION 6. Filing of Case Directly With the Commission not Allowed. — No case shall be brought directly to the Commission except in cases where the Commission exercises exclusive and original jurisdiction.

When in the opinion of the Regional Hearing Officer the action filed involves a matter of national significance or concern, he may certify and elevate the same to the Commission for proper disposition. The Commission may, in its discretion, assume jurisdiction thereof or remand the same to the concerned RHO for hearing and proper disposition.

SECTION 7. Rule on Criminal Actions. — For purposes of imposing the penal sanctions as provided for under Section 72 of R.A. No. 8371 that require criminal proceedings, offenses in violation of Sections 10, 21, 24, 33, and 59 of the same Act shall be prosecuted before the Regular Courts of proper jurisdiction. Jurisdiction over the civil and administrative aspect of said cases, however, shall be retained by the Commission and the RHO.

SECTION 8. Effective Exercise of Jurisdiction. — The Commission or the RHO may adopt measures to carry into effect the jurisdiction of the NCIP, including the issuance of supplementary writs or processes, especially where no procedure to be followed in the exercise of such jurisdiction is specified by law or by these Rules unless the same is violative of customary laws or it does not conform with the meaning and spirit of R.A. 8371.

RULE IV

Precondition for Adjudication

SECTION 9. Exhaustion of remedies provided under customary laws. — No case shall be brought before the RHO or the Commission unless the parties have exhausted all remedies provided for under customary laws.

SECTION 10. Indigenous System of Settlement. — The following rules shall apply in disputes involving ICCs/IPs:

- (a) Where the parties belong to the same tribe or ethnolinguistic group, the same shall be referred for settlement in accordance with the dispute settlement institution in the ICC/IP community;
- (b) Where the parties belong to different tribes or ethnolinguistic groups, the dispute shall be referred for settlement in accordance with established procedures covering inter-tribal disputes, if any, or in its absence, the parties may agree on the applicable procedure. Failure of agreement on this matter shall be considered as failure of settlement; and
- (c) As a general rule, lawyers are prohibited to appear for any party as counsel, except when such lawyer is appearing in his/her capacity as a member of the council of elders or due to his/her obligation as member of the IP community or for the purpose of defending or prosecuting his/her case.

SECTION 11. Effect of Settlement. — Settlement of disputes shall have the same force and effect as settlement arrived at or decision promulgated in accordance with these rules.

SECTION 12. Failure of Settlement. — Where the parties fail to settle their disputes as provided herein, the members of the indigenous dispute settlement group or council of elders shall issue a certification to the effect that all diligent efforts for settlement under customary practices failed.

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.

SECTION 15. Failure to Submit Certification. — The failure to submit the certification from the Council of Elders/Leaders shall be a ground for the dismissal of the action. The dismissal shall be without prejudice to the re-filing of the case.

SECTION 16. Records. — The Provincial Office of the NCIP shall keep a file of all disputes brought before the indigenous system of dispute resolution, whether said dispute was settled or not and where they actively participated in the documentation of the settlement process of any case or dispute, it is their responsibility to transmit the settlement or certificate of non-settlement to the RHO.

RULE V

Venue and Commencement of Actions

SECTION 17. Real Actions. — Actions arising out of disputes or controversies over ancestral domain/land, or actions involving real properties shall be filed with the RHO directly or through the Provincial Office of the NCIP having jurisdiction over the ancestral domain/land. In case the subject ancestral domain/land or portion/s thereof straddles two or more administrative or ethnographic regions, the action shall be filed with the RHO where a greater portion thereof is situated.

SECTION 18. Personal and Other Actions. — Personal and other actions shall be filed with the RHO where the petitioner/plaintiff resides or where the respondent/defendant resides at the option of the Petitioner/plaintiff.

SECTION 19. Waiver of Venue. — When improper venue is not objected to in the answer, it is deemed waived.

SECTION 20. Commencement of Action. — An action shall commence upon filing of a complaint/petition in accordance with these rules.

RULE VI
Parties to Actions or Proceedings

SECTION 21. Proper Parties. — The parties to any case or proceeding before the RHO or the Commission may be natural or juridical persons and other entities authorized by law.

SECTION 22. 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" for the complainant and in the case of the person being sued, shall be joined as "defendant" or "respondent."

SECTION 23. Class Suit. — When the issues and subject matter of the dispute or controversy involve common and general interest to many persons, one or more may sue or defend for the benefit of all. In such case, the RHO or the Commission shall ensure that the rights and interests of all parties are fully protected.

SECTION 24. Indigent Litigant. — A party may be authorized to prosecute his action or defense as a pauper litigant upon a proper determination that the party is indigent. Such authority, once given, shall exempt said party from payment of filing, appeal, and other legal fees.

RULE VII
Pleadings and Motions

SECTION 25. Authorized Pleadings. — The pleadings allowed under these rules shall be the complaint/petition which must be verified by the parties before officers authorized by law to administer oath, and the answer.

SECTION 26. Complaint/Petition. — The complaint or petition is the pleading containing the allegations of the plaintiff's or petitioner's cause of action. The complaint/petition shall state and narrate clearly the cause or causes of action in paragraphs and shall specifically state the substance of the claim made, the grounds relied upon, and the relief being pursued.

SECTION 27. Answer. — An answer is a pleading containing the defendant's or respondent's affirmative and negative defenses. The answer shall state clearly in paragraphs the facts denying the material allegations in the complaint/petition. A Prayer for the dismissal of the complaint/petition for lack of jurisdiction, prescription, res judicata or for improper venue must be pleaded in the answer and not in a motion to dismiss.

SECTION 28. Motions. — A motion is a prayer for relief other than by a complaint/petition or answer. Every application for relief through motions shall be set for hearing with notice to all parties concerned. The RHO or the Commission may grant the relief being prayed without need of a hearing if it is evident that the applicant is entitled to the relief and the conduct of a hearing entails additional burden and delay to the parties.

SECTION 29. Motion to Dismiss, Prohibited. — No motion to dismiss on any ground shall be allowed. All defenses including grounds for a motion to dismiss shall be stated in the answer. The RHO may *motu proprio* dismiss the action on any of the following grounds:

- a.) Failure to comply with Rule IV, Section 9 of these Rules;