

EN BANC

[G.R. No. 181284, April 18, 2017]

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, VS. 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. 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 RAMON ABERASTURI, RESPONDENTS.

RESOLUTION

PERALTA, J.:

For resolution are petitioners' Motion for Reconsideration and Supplemental Motion for Reconsideration of the Court's *en banc* Decision dated October 20, 2015, the dispositive portion of which states:

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.

In their Motion for Reconsideration, petitioners maintain that it is the National Commission on Indigenous Peoples (NCIP), not the regular courts, which has jurisdiction over disputes and controversies involving ancestral domain of the Indigenous Cultural Communities (ICCs) and Indigenous Peoples (IPs) regardless of the parties involved.

Petitioners argue that the rule that jurisdiction over the subject matter is determined by the allegations of the complaint, admits of exceptions and can be relaxed in view of the special and unique circumstances obtaining this case, *i.e.*, the actual issue, as shown by their motion to dismiss, involves a conflicting claim over an ancestral domain. They seek to apply by analogy the principles in *Ignacio v. CFI Bulacan*,^[1] *Ferrer v. Villamor*,^[2] *Nonan v. Plan*,^[3] among others, where it was held

that the allegations of tenancy by the defendant in its answer may be used in the determination of the jurisdiction of the court, and if indeed tenancy exists, the same should be lodged before the Court of Industrial Relations (now the Department of Agrarian Reform and Adjudication Board). They also invoke *Leoquinco v. Canada Dry Bottling Co.*,^[4] and *Mindanao Rapid Co. v. Omandam*^[5] where it was ruled that if allegations of labor disputes or employer-employee relations are alleged by defendants in their answer and the same is shown to exist, the Industrial Court (now the National Labor Relations Commission) takes cognizance of the case.

Petitioners also argue that the Court's interpretation of Section 66^[6] of Republic Act No. 8371, or the *Indigenous Peoples' Rights Act of 1997*,^[6] (IPRA) to the effect 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 group, is contrary to law and the Constitution. They posit that the State recognizes that each ICC or IP group is, and has been since time immemorial, governed by their own customary laws, culture, traditions and governance systems, and has the right to preserve and develop them as they may deem fit and necessary. Thus, each ICC and IP group did not, and does not, need an act of Congress such as the IPRA, to enforce their customary laws among themselves and their respective communities, and more so in further developing them.

Petitioners insist that claims and disputes within ICCs/IPs and/or between ICCs/IPs shall be resolved using customary laws, consistent with the State policy under the Constitution and the IPRA to recognize, respect and protect the customs, traditions and cultural integrity and institutions of the ICCs/IPs. They claim that cases of disputes between IPs within the same ICC/IP group are always resolved completely and with finality in accordance with their customary laws and practice, hence, the interpretation that the NCIP shall have jurisdiction in cases of disputes among IPs within the same ICC/IP group is not only absurd but unconstitutional. They aver that even disputes between different ICCs/IPs shall also fall within the jurisdiction of whatever their customary laws and practice provide since Section 65^[7] of the IPRA does not so distinguish. They presume that after coexisting for centuries in adjacent ancestral domains, some of the ICCs/IPs have developed their own indigenous means of settling disputes between other ICCs/IPs.

With respect to unresolved claims and disputes between different ICCs/IP groups and between ICCs/IPs and non-IPs, petitioners theorize that they fall under the jurisdiction of the NCIP pursuant to the provisions of the IPRA. They cite the concurring opinion of Justice Presbitero J. Velasco, Jr. that the second and third parts of Section 66 of the law only provide for a condition precedent that is merely procedural and does not limit the NCIP jurisdiction over disputes involving the rights of ICC/IPs. They contend that such interpretation is consistent with other provisions of the IPRA which lay out NCIP's jurisdiction under Sections 46(g),^[8] 62,^[9] 69,^[10] 70^[11] and 72^[12] of the IPRA.

Petitioners further point out that Section 72 of the IPRA permits the imposition of penalties under customary law even to non-IPs, and does not distinguish as to whom customary law may apply. According to them, any natural or juridical person, IPs or not, found to have violated provisions of then IPRA, particularly those identified in Section 72, may be dealt with by imposing penalties found in the corresponding customary laws. They submit that Section 72 does not require as a

condition precedent familiarity of the person to be penalized to the existing customary law of the affected community nor does it require for the said customary law to have been published to allow for its imposition to any person who committed the violation. Thus, they assert that Section 72 negates the ruling that NCIP's jurisdiction applies only to Sections 52, 54, 62 and 66, insofar as the dispute involves opposing parties belonging to the same tribe.

Petitioners likewise aver that Sections 46(g), 62, 69, 70 and 72 of the IPRA, taken together and in harmony with each other, clearly show that conflicts and disputes within and between ICCs/IPs are first under the jurisdiction of whatever their customary law provides, but disputes that are not covered by their customary laws, either between different ICCs/IPs or between an ICC/IP and a non-IP are also within the jurisdiction within the NCIP. Petitioners invoke *The City Government of Baguio City v. Masweng*^[13] and *Baguio Regreening Movement, Inc. v. Masweng*^[14] to support their theory that NCIP has original and exclusive jurisdiction over a case involving a dispute or controversy over ancestral domains even if one of the parties is a non-ICC/IP or does not belong to the same ICC/IP group.

In essence, petitioners argue that (1) the IPRA was not enacted to protect an IP from another IP whether from the same or different group, because they have their own means of resolving a dispute arising between them, through customary laws or compromises, as had been done for a very long time even before the passage of the law; (2) the IPRA is meant to address the greater prejudice that IPs experience from non-IPs or the majority group; and (3) the limited interpretation of Section 66 of the IPRA to its minute details without looking into the intent of the law will result in an unimaginable situation where the jurisdiction of the NCIP is only limited to those where both parties belong to the same ICCs/IPs; and (4) the application of the provisions of the IPRA, as a national law and a landmark social justice legislation, is encompassing and not limited to a particular group, *i.e.*, ICCs/IPs.

In their Supplemental Motion for Reconsideration, petitioners stress that (1) the NCIP and not the regular courts has jurisdiction over the case under the principle that jurisdiction over the subject matter of the case is determined by the allegations in the complaint, and pursuant to jurisprudence allowing exemptions thereto; (2) the jurisdiction over the subject matter of the case rests upon the NCIP as conferred by the IPRA; (3) the IPRA is a social legislation that seeks to protect the IPs not so much from themselves or fellow IPs but more from non-IPs; (4) the IPRA created the NCIP as the agency of government mandated to realize the rights of IPs; (5) in the exercise of its mandate, the NCIP was created as a quasi-judicial body with jurisdiction to resolve claims and disputes involving the rights of IPs; (6) the jurisdiction of the NCIP in resolving claims and disputes involving the rights of IPs is not limited to IPs of the same tribe; (7) harmonizing the related provisions of the IPRA supports the argument that the NCIP has jurisdiction over cases involving IP rights whether or not the parties are IPs or non-IPs; (8) the NCIP as quasi-judicial agency provides IPs mechanisms for access to justice in the fulfillment of the State's obligations to respect, protect and fulfill IP's human rights; (9) the NCIP has the competence and skill that would greatly advance the administration of justice with respect to protection and fulfillment of ICC/IP rights/human rights; and (10) recognition and enforcement of customary laws and indigenous justice systems fulfill the State's obligations as duty bearers in the enforcement of human rights.

While the petitioners' Motion for Reconsideration and the Supplemental Motion for

Reconsideration fail to persuade, there is a need to clarify the NCIP's jurisdiction over claims and disputes involving rights of ICC/IPs.

The Court finds no merit in petitioners' contention that jurisdiction of the court over the subject matter of a case is not merely based on the allegations of the complaint in certain cases where the actual issues are evidenced by subsequent pleadings. It is well settled that the jurisdiction of the court cannot be made to depend on the defenses raised by the defendant in the answer or a motion to dismiss; otherwise, the question of jurisdiction would depend almost entirely on the defendant.^[15] Suffice it also to state that the Court is unanimous^[16] in denying the petition for review on *certiorari* on the ground that the CA correctly ruled that the subject matter of the original and amended complaint based on the allegations therein is within the jurisdiction of the RTC.

In his Concurring Opinion, Justice Presbitero J. Velasco, Jr. concurred with the *ponencia* that the RTC has jurisdiction over the case:

Both original and amended complaints, *accion reivindicatoria* and injunction, respectively, are incapable of pecuniary estimation; thus falling within the jurisdiction of the RTC. As correctly pointed out by the *ponencia*, "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." It cannot be acquired through a waiver or enlarged by the mission of the parties or conferred by acquiescence of the court.^[17]

In his Separate Opinion, Justice Arturo D. Brion also concurred with the *ponencia's* conclusion that the RTC has jurisdiction over the case because (1) the CA correctly ruled that the RTC's February 14, 2005 Order is not tainted with grave abuse of discretion, (2) jurisdiction over the subject matter is determined by law and the allegations of the complaint; and (3) the NCIP's jurisdiction over disputes is limited to cases where both parties are members of the same ICC/IP group.

In his Concurring Opinion, Justice Jose Portugal Perez agreed with the *ponencia* that jurisdiction over the original and amended complaint, *accion reivindicatoria* and injunction, correctly lies with the RTC, based on the principle that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint.

In his Concurring Opinion, Justice Marvic M.V.F. Leonen likewise voted to dismiss the petition for review on *certiorari*, and to affirm the assailed decision and resolution of the CA. He concurred with the *ponencia* in holding that respondents' action, alleged to be involving a claim over the ancestral domain of an ICC/IP, does not fall within the exclusive jurisdiction of the NCIP.

In sum, the Court finds no substantial argument in petitioners' motions for reconsideration to justify a reversal of its ruling that jurisdiction over the subject matter of respondents' original and amended complaint based on the allegations therein lies with the RTC.

The crucial issue in this case, however, revolves around the complex nature of the jurisdiction of the NCIP, as shown by the different but well-reasoned opinions of the

Associate Justices concerned *vis-a-vis* the arguments in petitioners' motions for reconsideration.

To recall, the *ponencia* has held that 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 group. When such claims and disputes arise between or among parties who do not belong to the same ICC/IP group, the case shall fall under the jurisdiction of the regular courts, instead of the NCIP. Thus, even if the real issue involves dispute over a land which appear to be located within the ancestral domain of an ICC/IP, it is not the NCIP but the RTC which has the power to hear, try and decide the case. In exceptional cases under Sections 52, 54 and 62 of the IPRA, the NCIP shall still have jurisdiction over such claims and disputes even if the parties involved do not belong to the same ICC/IP group.

Justice Velasco's position is that the NCIP has jurisdiction over all claims and disputes involving rights of ICCs/IPs, regardless of whether or not they belong to the same IP/IC group. According to him, all cases and disputes where both parties are ICCs/IPs fall under the exclusive jurisdiction of the NCIP; all cases and disputes where one of the parties is a non-ICC/IP are covered by the jurisdiction of the regular courts regardless of the subject matter even if it involves ancestral domains or lands of ICCs/IPs; and regular courts have jurisdiction over cases and disputes as long as there are parties who are non-ICCs/IPs.

For Justice Brion, the IPRA's intent is neither to grant the NCIP sole jurisdiction over disputes involving ICCs/IPs, nor to disregard the rights of non-ICCs/IPs under national laws. However, he stresses that the NCIP maintains primary jurisdiction over: (1) adverse claims and border disputes arising from delineation of ancestral domains/lands; (2) cancellation of fraudulently issued Certificate of Ancestral Domain Titles (*CADTs*); and (3) disputes and violations of ICCs/IPs rights between members of the same ICC/IP group.

Justice Perez opines that neither does the IPRA confer original and exclusive jurisdiction to the NCIP over all claims and disputes involving rights of ICCs/IPs. He adds that 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. He concludes that under Section 66 of the IPRA, the jurisdiction of the NCIP is limited, and confined only to cases involving rights of IPs/ICCs, where both such parties belong to the same ICC/IP group.

Justice Leonen is of the view that the jurisdiction of the NCIP is limited to disputes where both parties are members of ICC/IP group and come from the same ethnolinguistic group. He states that the requirements for the proper exercise of the NCIP's jurisdiction over a dispute, pursuant to Section 66 of the IPRA, are as follows: (1) the claim or dispute must involve the rights of ICCs/IPs; (2) both parties must belong to the same ICC/IP group; (3) these parties must have exhausted remedies under their ICC/IP's customary laws; and (4) compliance with this requirement of exhausting remedies under customary laws must be evidenced by a certification issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute, to the effect that the dispute has not been resolved.