NICASIO I. ALCANTARA, PETITIONER, VS. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, DENR SECRETARY ELISEA G. GOZUN, REGIONAL EXECUTIVE DIRECTOR MUSA C. SARUANG, DENR CENRO AN...

G.R. No. 161881. July 31, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, seeking a reversal of the Decision[1] of the Court of Appeals (CA) dated September 24, 2003 which affirmed the orders of the Department of Environment and Natural Resources (DENR), cancelling the Forest Land Grazing Lease Agreement (FLGLA) with Nicasio A. Alcantara (petitioner), ordering him to vacate the land subject of the cancelled FLGLA and directing the installation of members of a group composed of B'laan and Maguindanaoans, represented by Rolando Paglangan (private respondents) in the area; as well as the CA Resolution[2] dated January 23, 2004 denying petitioner's Motion for Reconsideration.

The antecedent facts are as follows:

Petitioner is a lessee under FLGLA No. 542, issued by the DENR, of nine hundred twenty-three (923) hectares of public forest land [3] (subject land) located in the vicinity of Sitio Lanton, Barrio Apopong, General Santos City. [4]

The subject land, however, is being claimed as the ancestral land of the indigenous B'laan and Maguindanao people, who maintain that they and their predecessors have been cultivating, possessing and occupying it since time immemorial.[5] They claim that Christian settlers (settlers) started occupying the area only after World War II. As a result, there was constant friction between the indigenous inhabitants and the settlers, with the disputes, at times, erupting in violence. Overpowered, the indigenous people eventually lost physical control of much of the land.[6]

Petitioner, a son of one of the settlers, used to hold a pasture permit over the subject land, which was later on converted into FLGLA No. 542 covering the subject property.[7] Petitioner claims that FLGLA No. 542 has been subsisting since 1983.[8]

On April 10, 1990, private respondents, representing the B'laan and Maguindanao tribes, filed a complaint[9] against petitioner before the Commission on the Settlement of Land Problems (COSLAP) seeking the cancellation of FLGLA No. 542 and the reversion of the land to the indigenous communities.[10]

Private respondents, the Heirs of Datu Abdul B. Pendatun and the Heirs of the Sabal Mula Gawan Clan (respondents-intervenors), claiming to represent the B'laan and Maguindanaoan tribes, aver that they have always possessed the land until the first settlers occupied the area.[11] They claim that among those who took the land by force was petitioner's predecessor, Conrado Alcantara. They narrate that in 1962, some of their tribal leaders tried

to re-take the land, but failed because the well-armed settlers repelled them.[12] The incident, in fact, led to the killing of two of their leaders.[13]

Petitioner filed an answer to the complaint questioning the authority of the COSLAP and alleged that it was the secretary of the DENR who should have jurisdiction to administer and dispose of public lands.[14] Petitioner also contended that the COSLAP should suspend the hearing of the case, as the DENR was then hearing a similar controversy.[15]

In 1993, despite the pendency of the COSLAP case, and despite opposition from private respondents, petitioner was able to renew FLGLA No. 542 when it expired that year.[16] The renewal given to petitioner was for another 25 years, or until December 31, 2018.[17]

Meanwhile, on October 29, 1997, Congress passed Republic Act No. 8371, or the Indigenous People's Rights Act (IPRA), which was intended to recognize and promote all the rights of the country's Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) within the framework of the Constitution.[18]

On August 3, 1998, the COSLAP rendered its decision, the dispositive portion of which reads as follows:

> WHEREFORE, the foregoing considered, judgment is hereby RENDERED in favour of the complainants and against the Respondents as follows:
>
> - Recommends to the Hon. Secretary of DENR the cancellation of respondent's renewed Forest Land Grazing Lease Agreement (FLGLA) No. 542;
>
> - Recommending to the DENR to the immediate segregation of the Three Hundred (300) hectares requested by complainants from the Nine Hundred Twenty Three (923) Hectares;
>
> - Recommending to the DENR to declare the entire area of the Nine Hundred Twenty Three (923) Hectares, the ancestral lands of the B'laans;
>
> - Recommending to the DENR after the Cancellation of FLGLA No. 542, to place in possession the petitioners in order to start cultivation and plant crops for their food and solve the on-going famine and hunger being experience[d] at present by the Lumads.[19]

In addition, the COSLAP made the following factual findings:

> a) The subject land is the ancestral domain of the complainant indigenous people, whose possession was merely interrupted by the forcible and violent takeover of outside settlers.[20]
>
> b) FLGLA No. 542 was issued by the DENR without giving due process to the indigenous communities as oppositors and in violation of existing laws such as Presidential Decree (P.D.) No. 410 and the Constitution.[21]

The COSLAP maintained that it had jurisdiction over the case by virtue of Executive Order (E.O.) No. 561, the law creating the COSLAP, which provides:

> Sec. 3. Powers and Functions. - The Commission shall have the following powers and functions:
>
> x x x x
>
> 2. Refer and follow-up for immediate action by the agency having appropriate jurisdiction any land problem or dispute referred to the Commission: Provided, That the Commission may, in the following cases, assume jurisdiction and resolve land problems or disputes which are critical and explosive in nature considering, for instance, the large number of the parties involved, the presence or emergence of social tension or unrest, or other similar critical situations requiring immediate action:

(a) Between occupants/squatters and pasture lease agreement holders or timber concessioners;
(b) Between occupants/squatters and government reservation grantees;
(c) Between occupants/squatters and public land claimants or applicants;
(d) Petitions for classification, release and/or subdivision of lands of the public domain; and
(e) Other similar land problems of grave urgency and magnitude.[22]

Disagreeing with the ruling of COSLAP, petitioner filed a motion for reconsideration of the decision, which COSLAP denied.

Petitioner then filed before the CA a petition[23] for certiorari under Rule 65 to question the decision of the COSLAP. The CA, in its Decision dated June 22, 2000, affirmed in toto the decision of the COSLAP.[24]

Aggrieved, petitioner filed a petition for review on certiorari before the Court, docketed as G.R. No. 145838.

The Court, in its Decision dated July 20, 2001, upheld the CA and the COSLAP, holding that a) COSLAP had jurisdiction to decide the case; b) FLGLA No. 542 was issued in violation of the law, and; c) the 923 hectares covered by FLGLA No. 542 were ancestral land of the private respondents.[25]

When the decision of the Court attained finality, private respondents filed a motion for execution of the COSLAP's decision. Petitioner filed his opposition to the motion.

On July 29, 2002, the COSLAP issued a writ of execution of its decision, wherein it ordered the Secretary of the DENR to implement the August 3, 1998 decision as affirmed by the Supreme Court.[26]

In a memorandum dated October 19, 2001, the Secretary of the DENR Heherson Alvarez (Sec. Alvarez), upon receipt of the writ of execution and before cancelling FLGLA No. 542, ordered the Office of the Regional Executive Director of DENR Region XII, in Koronadal City, to conduct a review and investigation of FLGLA No. 542.[27] In compliance, the Officer in Charge (OIC)- Regional Executive Director conducted an investigation and review of the lease under the said FLGLA. One of the participants in the investigation was a representative of petitioner.[28] Following the investigation, the team released its report,[29] dated February 13, 2002, which found violations by petitioner of the terms of the FLGLA, as follows:

- Failure to establish a food production area within the leased area;

- Failure to undertake forage improvement within the leased area;

- Failure to pay the full and or on time Annual Rental/User's Fee/ Government Share pursuant to section 28 and 29 of DAO No. 99-36 dated August 10, 1999 Re: Revised Rules and Regulations Governing the Administration, Management, Development and Disposition of Forest Lands Used for Grazing Purposes. Instead the lessee pay (sic) a partial payment of Php18,566 per O.R. [No.] 9640117 dated December 29, 2000 and Php147,680 per O.R. [No.] 9640246 dated February 1, 2001.

- The 7-years (sic) Grazing Management Plan for CY 1987-1993 of the said lessee was expired. During our investigation, the lessee had failed to present the revised 7-years [sic] Grazing Management Plan for CY 1994-2000 and thereafter pursuant to item No. 23 of the aforesaid contract.

- Annual report for year 2001 submitted by the lessee revealed that cattle stock of the leased area is only 249 heads; however, the investigation team observed that there were an excess of cattle stock present in the grazing area. The said excess cattle were (sic) allegedly came from [an] adjacent ranch own (sic) by Alejandro Alcantara.

- The team noticed the presence of squatters within the leased area by [a] certain Asonto et al. and Jumawan et al.

- FLGLA no. 542 having [sic] an area of 923 hectares which exceed to (sic) the limit of 500 hectares for

individual holder [sic] pursuant to Section 3 Article XII of [the] 1987 Philippine Constitution as implemented by DAO No. 99-36 series of 1999.

- Pursuant to Memorandum dated December 5, 2001 of the team leader Wahid Amella of CLCSI No. 6 the 478.08 hectares out of the 923 hectares of the leased area is portion of PMD 5338 reverting it to the category of Forest Land. However, no Forestry Administrative Order issued. x x x[30]

Thus, on August 15, 2002, Sec. Alvarez issued an order cancelling FLGLA No. 542 and subjecting the area under the DENR's authority pending final distribution to the concerned communities by the National Commission on Indigenous Peoples (NCIP) or the COSLAP.[31]

Petitioner filed a motion for reconsideration of the order of cancellation. In an order dated November 21, 2002,[32] Sec. Alvarez denied the motion for reconsideration and affirmed the order of cancellation dated August 15, 2002.

On November 22, 2002, Sec. Alvarez issued a memorandum to the Regional Executive Director of DENR Region XII, in Koronadal City, to implement the four recommendations of the COSLAP contained in its Order dated August 3, 1998; and issue the corresponding survey authority.[33]

On November 26, 2002, Community Environment and Natural Resources Officer (CENRO) Andrew B. Patricio Jr. sent a letter to petitioner, advising him to vacate and remove all improvements in the area within 10 days from receipt of the letter.[34] On even date, CENRO Patricio sent another letter which amended the first letter and advised petitioner to vacate the land immediately, instead of within 10 days as earlier advised.[35]

On November 27, 2002, CENRO Patricio issued an Installation Order, which directed the immediate installation and occupation of the area, covered by the cancelled FLGLA No. 542, by the private respondents' indigenous communities.[36]

On December 3, 2002, petitioner filed a petition for certiorari before the CA, docketed as CA G.R. SP No. 74166, praying for the annulment and setting aside of the orders of the public respondents, enumerated as follows:

> 1) The Order dated August 15, 2002 by Sec. Alvarez, which cancelled the FLGLA No. 542 issued to petitioner;
>
> 2) The Order dated November 21, 2002 by Sec. Alvarez denying petitioner's motion for reconsideration of the order of cancellation;
>
> 3) The Memorandum dated November 22, 2002 by Sec. Alvarez which orders Regional Office XII of the DENR to implement COSLAP's recommendations and to issue the corresponding survey authority;
>
> 4) The two Letters dated November 26, 2002 of CENRO Patricio ordering petitioner to immediately vacate and remove improvements in the subject area.
>
> 5) The Installation Order dated November 27, 2002 of CENRO Patricio authorizing the installation and occupation of the subject area by private respondents.

On September 24, 2003, the CA rendered its decision, dismissing the petition filed by petitioner Alcantara and ruling that the issues and arguments it raised had all been addressed squarely in the Supreme Court's decision in G.R. No. 145838 which upheld the COSLAP's decision and which had long become final and executory. The CA stated further that the petition was barred by the decision in that case, as both shared the same parties, the same subject matter and the same cause of action.

Hence, herein petition.

Petitioner alleges that when he filed the petition for certiorari before the CA below (CA G.R. SP No 74166), questioning the orders of respondents DENR officials, he "did not seek to have the cancellation of its FLGLA No. 542 reconsidered or reopened, precisely because such cancellation was already covered by a final decision of the Supreme Court." He insists that what he sought was to have a "clear determination of his residual rights after such cancellation in the context of the provisions of the IPRA Law x x x considering that the right to 'lands of the ancestral domain' arose only in view of the IPRA Law and cultural minorities had priorly no right to recover their ancestral lands."[37]

Petitioner's arguments are centered on the following two main issues:

> Whether petitioner may continue his enjoyment of the land up to the expiration of FLGA No. 542, or December 31, 2018, based on his alleged residual rights.
>
> Whether respondents DENR officials committed grave abuse of discretion in implementing the COSLAP's decision, which has been upheld by the Supreme Court.

The petition lacks merit.

Petitioner may not enjoy possession and use of the land up to the expiration of FLGLA No. 542, or December 31, 2018, based on his alleged residual rights.

Petitioner's claim that he has residual rights to remain on the property is based on Section 56 of the IPRA, which states:

> SEC. 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.

The contention of petitioner has no merit. As stated in the Court's decision in G.R. No. 145838,[38] the legal dispute surrounding petitioner's FLGLA No. 542 began in 1990, which was before the IPRA's passage in 1997, and even before the FLGLA was renewed in 1993. Thus, the case is not covered by IPRA, but by other laws existing at the time the COSLAP took cognizance of the case. IPRA also did not cure the legal defects and infirmities of FLGLA No. 542, which were already the subject of controversy by the time the law was passed.

Petitioner further calls for IPRA's application, since "the right to lands of the ancestral domain arose only in view of the IPRA Law and cultural minorities had priorly no right to recover their ancestral lands."[39] Petitioner is utterly mistaken or misinformed. Before IPRA, the right of ICCs/IPs to recover their ancestral land was governed by Presidential Decree (P.D.) No. 410,[40] which declared ancestral lands of national cultural communities as alienable and disposable, and E.O. No. 561,[41] which created the COSLAP. These laws were the bases of the Court's decision in G.R. No. 145838. That the rights of most ICCs/IPs went largely unrecognized despite these laws was not due to the laws' inadequacies, but due to government indifference and the political inertia in their implementation.[42]

It is also clear that when this Court, in G.R. No. 145838, declared FLGLA No. 542 as illegal and upheld COSLAP's recommendation of its cancellation, petitioner had no right to the land, and consequently, had no right to remain in the use and possession of the subject land. Sec. Alvarez's cancellation of FLGLA No. 542 merely conformed with the Court's findings. The cancellation made by the DENR merely sealed the fact that FLGLA No. 542 should not have been issued in favour of petitioner, in the first place. The COSLAP decision has the force and

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effect of a regular administrative resolution; hence, it must be implemented and is binding on all parties to the case.[43]

The question whether FLGLA No. 542 is valid has been settled conclusively in G.R. No. 145838 in which the Court made the final finding that FLGLA No. 542 was issued illegally, and that it was made in violation of prevailing laws; and that it was proper for it to be cancelled. The Court ruled, thus:

> The Court of Appeals also stated that based on the records, the land area being claimed by private respondents belongs to the B'laan indigenous cultural community since they have been in possession of, and have been occupying and cultivating the same since time immemorial, a fact which has not been disputed by petitioner. It was likewise declared by the appellate court that FLGLA No. 542 granted to petitioner violated Section 1 of Presidential Decree No. 410 which states that all unappropriated agricultural lands forming part of the public domain are declared part ofthe ancestral lands of the indigenous cultural groups occupying the same, and these lands are further declared alienable and disposable, to be distributed exclusively among the members of the indigenous cultural group concerned.
>
> The Court finds no reason to depart from such finding by the appellate court, it being a settled rule that findings of fact of the Court of Appeals are binding and conclusive upon the Supreme Court absent any showing that such findings are not supported by the evidence on record.[44] (Emphasis supplied)

Petitioner himself admits the finality of that decision, as he states in the petition that he does not "seek to have the cancellation of FLGLA No. 542 reconsidered or reopened, x x x but a clear determination of his residual rights after such cancellation in the context of the provisions of the IPRA Law." However, it appears from a reading of the entire petition that what petitioner means by his "residual rights" is for him to continue enjoying exclusive use of the land until the expiration of FLGLA No. 542 on December 31, 2018.[45]

Again, the decision in G.R. No. 145838 brings out the futility of petitioner's arguments. In no uncertain terms, that decision declared that FLGLA No. 542 was illegally issued. Therefore, from that illegal issuance only flowed an invalid FLGLA, as it is axiomatic in our legal system that acts executed against the laws are void,[46] and that administrative or executive acts, orders and regulations that are contrary to the laws or the Constitution are invalid.[47] Petitioner has no right or interest to speak of, because it is also axiomatic that no vested or acquired right can arise from illegal acts or those that infringe upon the rights of others.[48]

Petitioner's proposition that despite the lengthy litigation that culminated in the invalidation of FLGLA No. 542, he still has the "residual right" to enjoy use of the land until December 31, 2018 is absolutely unacceptable. His stance invites anomaly at best, or ridicule at worst, for it asks this Court to render useless its own final decision in G.R. No. 145838. It also solicits disrespect of all judicial decisions and processes. Instead of ending the litigation, it mocks the painstaking process undertaken by the courts and administrative agencies to arrive at the decision in that case. Petitioner's alleged "residual right" has no legal basis and contradicts his admission that FLGLA No. 542 has been declared invalid by the Court in its decision in G.R. No. 145838. Petitioner has had no residue of any right and no entitlement to the land, from the very beginning.

Petitioner's concern over his alleged rights under the IPRA have all been addressed in G.R. No. 145838. The IPRA was enacted on October 29, 1997. The decision in G.R. No. 145838 was promulgated on July 20, 2001. On that later date, the Court was already aware of IPRA; and when it rendered the decision, it could have expressly declared that petitioner had residual rights under that law if such was the case.[49] The Court applied P.D. No. 410, the law in effect before the IPRA, in finding that FLGLA No. 542 was illegal. This finally disposes of petitioner's claim that he has rights under the IPRA.

In fact, the Court sees petitioner's filing of the present petition as outright forum-shopping, as it seeks to revisit

what has become a final and executory decision. As explained in earlier cases, the hallmarks of forum- shopping are:

> Forum-shopping exists where the elements of litis pendentia are present, and where a final judgment in one case will amount to res judicata in the other. Thus, there is forum- shopping when, between an action pending before this Court and another one, there exist: "a) identity of parties, or at least such parties as represent the same interests in both actions, b) identity of rights asserted and relief prayed for, the relief being founded on the same facts, and c) the identity of the two preceding particulars is such that any judgment rendered in the other action, will, regardless of which party is successful amount to res judicata in the action under consideration; said requisites also constitutive of the requisites for auter action pendant or lis pendens." Another case elucidates the consequence of forum-shopping: "[W]here a litigant sues the same party against whom another action or actions for the alleged violation of the same right and the enforcement of the same relief is/are still pending, the defense of litis pendentia in one case is a bar to the others; and, a final judgment in one would constitute res judicata and thus would cause the dismissal of the rest."[50]

Thus, when petitioner raised the issue on whether he should be allowed to remain on the subject land until the expiration of FLGLA No. 542, based on his alleged residual rights, he re-opened an issue already discussed and settled in an earlier case. His use of cleverly disguised language does not hide this fact. Clearly, the Supreme Court decision, in G.R. No. 145838, is res judicata in the present case. Therefore, his filing of the present case despite the finality of an earlier identical case makes the present one subject to dismissal.

It has been held that res judicata has two concepts: bar by prior judgment and conclusiveness of judgement.[51] The elements under the first concept are the following:

> (1) a former final judgment that was rendered on the merits;
>
> (2) the court in the former judgment had jurisdiction over the subject matter and the parties; and,
>
> (3) identity of parties, subject matter and cause of action between the first and second actions;[52]

On the other hand, for the second concept to operate, or for there to be conclusiveness of judgment, there must be identity of parties and subject matter in the first and second cases, but no identity of causes of action.[53] If a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties will be final and conclusive in the second if that same point or question was in issue and adjudicated in the first suit; but the adjudication of an issue in the first case is not conclusive of an entirely different and distinct issue arising in the second.[54] Under the doctrine of conclusiveness of judgment, facts and issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties, even if the latter suit may involve a different claim or cause of action.[55]

Consequently, the present petition is already barred by res judicata under the first concept, since the first and second cases share identical parties, subject matter and cause of action. The shared cause of action is the alleged violation of petitioner's right to remain on the subject land until the expiry date of FLGLA No. 542 on December 31, 2018. As this issue has been settled, there is no more reason to revisit it in the present case. There is no reason for an illegal and cancelled FLGLA to continue in effect or confer any rights on anyone until it expires on December 31, 2018.

Even if the Court accepts petitioner's contention that in the present case, he introduces another cause of action, which is the alleged violation of his right to due process by the haphazard implementation of the COSLAP decision by the respondent DENR officials, it is severely limited by the second concept of res judicata, i.e., conclusiveness of judgment. Since it is now conclusive and binding in this case that FLGLA No. 542 is illegal and

should be cancelled, per the decision in G.R. No. 145838, petitioner could no longer deny that the respondent DENR officials acted legally in cancelling FLGLA No. 542 and in ordering petitioner to vacate the subject land. The public respondents merely acted to implement the COSLAP decision as upheld by the Supreme Court.

Thus, petitioner is left to prove only whether the public respondents acted with grave abuse of discretion in their execution of COSLAP's decision.

There was no grave abuse of discretion in public respondents' implementation of the COSLAP decision.

The Court finds that no grave abuse of discretion was committed by respondent DENR officials in their implementation of the COSLAP decision.

It must be emphasized that FLGLA No. 542 is a mere license or privilege granted by the State to petitioner for the use or exploitation of natural resources and public lands over which the State has sovereign ownership under the Regalian Doctrine.[56] Like timber or mining licenses, a forest land grazing lease agreement is a mere permit which, by executive action, can be revoked, rescinded, cancelled, amended or modified, whenever public welfare or public interest so requires.[57] The determination of what is in the public interest is necessarily vested in the State as owner of the country's natural resources.[58] Thus, a privilege or license is not in the nature of a contract that enjoys protection under the due process and non- impairment clauses of the Constitution.[59] In cases in which the license or privilege is in conflict with the people's welfare, the license or privilege must yield to the supremacy of the latter, as well as to the police power of the State.[60] Such a privilege or license is not even a property or property right, nor does it create a vested right; as such, no irrevocable rights are created in its issuance.[61]

FLGLA No. 542 has not only been withdrawn by executive action to further the public welfare, it has also been declared illegal or unlawful by judicial authorities for clearly violating actual provisions of law. Thus, the DENR was under obligation to effect the cancellation accordingly.

We likewise find no irregularity in the procedure followed by respondent DENR officials in their cancellation of FLGLA No. 542 and their orders for petitioner to vacate the subject land. Petitioner claims that the public respondents were "haphazard" in their cancellation of the FLGLA, thus denying him due process.[62] Contrary to the portrayals by the petitioner, however, the officials were not precipitate in their cancellation of the license and in ordering petitioner to vacate the land. Instead of immediately cancelling FLGLA No. 542, Sec. Alvarez first ordered the Regional Executive Director of DENR to conduct a review and investigation of FLGLA No. 542.[63] Following that investigation, attended by petitioner's representative, it was found that petitioner committed several violations of the terms of the FLGLA.[64] It was only then that Sec. Alvarez issued the cancellation order.

It is clear from the investigation report that petitioner's FLGLA No. 542 is not only illegal per se, for having been issued contrary to the provisions of P.D. No. 410; it has also been rendered illegal by petitioner's blatant violations of DENR regulations and the FLGLA's very own terms and conditions. Thus, the DENR had compelling reasons to cancel the FLGLA.

In conclusion, the Court, in G.R. No. 145838, recognized the inherent right of ICCs/IPs to recover their ancestral land from outsiders and usurpers. Seen by many as a victory attained by the private respondents only after a long and costly effort, the Court, as a guardian and instrument of social justice, abhors a further delay in the resolution of this controversy and brings it to its fitting conclusion by denying the petition.

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WHEREFORE, the decision appealed from is AFFIRMED. Double costs against petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Reyes, and Leanardo-De Castro, JJ., concur.

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* In lieu of Justice Antonio Eduardo B. Nachura, per Raffle dated July 21, 2008.

[1] Penned by Associate Justice B.A. Adefuin-De la Cruz with the concurrence of Associate Justices Eliezer R. de los Santos and Jose C. Mendoza; rollo, pp. 46-52.

[2] Id. at 54.

[3] Id. at 5.

[4] CA rollo, p. 35.

[5] Rollo, p. 128.

[6] Memorandum of respondents Paglangan et al., pp. 7-11; Court of Appeals decision in CA-G.R. SP No. 53159, June 22, 2000, pp. 2-4, CA rollo, pp. 143-145.

[7] Id. at 52.

[8] Rollo, p. 12.

[9] Docketed as COSLAP Case No. 98-052.

[10] Rollo, pp. 73, 128, 215; Alcantara v. Commission on the Settlement of Land Problems, G.R. No. 145838, July 20, 2001, 361 SCRA 664.

[11] Memorandum of respondents Paglangan, et al., pp. 7-9.

[12] Id. at 8-9.

[13] Id. at 9.

[14] Quoted from the COSLAP Decision dated August 3, 1998, CA rollo, pp. 128-141, 134-135.

[15] Id.

[16] Rollo, pp. 73, 129.

[17] Id. at 5, 129.

[18] The provisions of the Constitution recognizing the rights of ICCs/IPs are: Article II, Sec. 22; Article VI, Sec. 5, par. 2; Article XII, Sec. 5; Article XIII, Sec. 6; Article XIV, Sec. 17; and Article XVI, Sec. 12.

[19] CA rollo, p. 56.

[20] Id. at 53.

[21] Id. at 55.

[22] CA rollo, p. 55.

[23] Docketed as CA-G.R. SP No. 53159.

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[24] CA rollo, pp. 142-152.

[25] Alcantara v. Commission on the Settlement of Land Problems, supra note 10, at 670-671.

[26] CA rollo, pp. 66-68.

[27] Id. at 161.

[28] Id. at 162.

[29] Id. at 162-165.

[30] CA rollo, pp. 162-165.

[31] Id. at 35-36.

[32] Id. at 39-41.

[33] Id. at 42.

[34] CA rollo, p.102.

[35] Id. at 103.

[36] Id. at 104.

[37] Rollo, pp. 14-15.

[38] Supra note 10, at 664.

[39] Rollo, pp. 14-15.

[40] Declaring Ancestral Lands Occupied and Cultivated by National Cultural Communities as Alienable and Disposable, and for Other Purposes.

[41] Creating the Commission on the Settlement of Land Problems; among the provisions of this law are:

> x x x x
>
> WHEREAS, land problems are frequently a source of conflicts among small settlers, landowners and members of cultural minorities;
>
> x x x x
>
> Sec. 3. Powers and Functions. - The Commission shall have the following powers and functions:
>
> 1. Coordinate the activities, particularly the investigation work, of the various government offices and agencies involved in the settlement of land problems or disputes, and streamline administrative procedures to relieve small settlers and landholders and members of cultural minorities of the expense and time-consuming delay attendant to the solution of such problems or disputes; x x x.

[42] Cruz v. Secretary of Environment and Natural Resources, G.R. No. 135385, December 6, 2000, 347 SCRA 128, Separate Opinion of Associate (now Chief) Justice Reynato S. Puno, p. 193.

[43]Executive Order No. 561 (1979), Sec. 3, par. 2.

[44] Supra note 10, at 670-671.

[45] Rollo, pp. 11, 33.

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[46] Civil Code, Art. 5.

[47] Civil Code, Art. 7.

[48] Civil Code, Art. 2254; Philippine National Bank v. Court of Appeals, G.R. No. 108870, July 14, 1995, 246 SCRA 304; Heirs of Gabriel Zari v. Santos, Nos. L-21213 & L-21214, March 28, 1969, 27 SCRA 651.

[49] The decision mentions the National Commission on Indigenous Peoples (NCIP), an agency created under the IPRA, in discussing the jurisdiction of the COSLAP. Supra note 10, at 667.

[50] Prubankers Association v. Prudential Bank and Trust Company, G.R. No. 131247, January 25, 1999, 302 SCRA 74, 83; First Philippine International Bank v. Court of Appeals, January 24, 1996, 252 SCRA 259.

[51] Laperal v. Katigbak, No. L-16951, February 28, 1962, 4 SCRA 582, 590; Tiongson v. Court of Appeals, No. L-35059, February 27, 1973, 49 SCRA 429, 434; Vda. de Cruzo v. Carriaga, Jr., G.R. Nos. 75109-10, June 28, 1989, 174 SCRA 330, 338; Nabus v. Court of Appeals, G.R. No. 91670, February 7, 1991; 190 SCRA 732, 739.

[52] Cayana v. Court of Appeals, G.R. No. 125607, March 18, 2004, 426 SCRA 10, 20.

[53] Republic v. Yu, G.R. No. 157557, March 10, 2006, 484 SCRA 416, 422.

[54] Nabus v. Court of Appeals, supra note 51, at 739.

[55] Rizal Surety and Insurance Company v. Court of Appeals, G.R. No. 112360, July 18, 2000, 336 SCRA 12, 21-22 citing Smith Bell and Company (Phils.), Inc. v. Court of Appeals, G.R. No. 56294, May 20, 1991, 197 SCRA 201, 209.

[56] CONSTITUTION, Art. XII, Sec. 2; United Paracale Mining Company, Inc. v. Dela Rosa, G.R. Nos. 63786-87, April 7, 1993, 221 SCRA 108; Republic v. Court of Appeals, No. L-43938, April 15, 1988, 160 SCRA 228, 239; Santa Rosa Mining Company, Inc. v. Leido, Jr., No. L-49109, December 1, 1987, 156 SCRA 1, 8-9; La Bugal-B'Laan Tribal Association, Inc. v. Ramos, G.R. No. 127882, January 27, 2004, 421 SCRA 148.

[57] Tan v. Director of Forestry, No. L-24548, October 27, 1983, 125 SCRA 302, 325; Oposa v. Factoran, Jr., G.R. No. 101083, July 30, 1993, 224 SCRA 792, 812; Alvarez v. Picop Resources, Inc., G.R. No. 162243, November 29, 2006, 508 SCRA 498; Republic v. Rosemoor Mining and Development Corporation, G.R. No. 149927, March 30, 2004, 426 SCRA 516, 530.

[58] Republic v. Rosemoor Mining and Development Corporation, supra note 57.

[59] Id.

[60] Id.

[61] Tan v. Director of Forestry, supra note 57.

[62] Rollo, pp. 18-19.

[63] Supra note 27.

[64] Supra note 30.

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