THE CITY GOVERNMENT OF BAGUIO CITY, REPRESENTED BY REINALDO BAUTISTA, JR., CITY MAYOR; THE ANTI-SQUATTING COMMITTEE, REPRESENTED BY ATTY. MELCHOR CARLOS R. RAGANES, CITY BUILDIN...

G.R. No. 180206. February 04, 2009

Ponente: TINGA, J.

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TINGA, J.:

Petitioners, the City Government of Baguio City, represented by its Mayor, Reinaldo Bautista, Jr., the Anti-Squatting Committee, represented by Atty. Melchor Carlos R. Rabanes; the City Buildings and Architecture Office, represented by Oscar Flores; and the Public Order and Safety Office, represented by Emmanuel Reyes and later substituted by Gregorio Deligero, assail the Decision[1] of the Court of Appeals in CA G.R. SP No. 96895, dated April 16, 2007, and its Resolution[2] dated September 11, 2007, which affirmed the injunctive writ issued by the National Commission on Indigenous Peoples (NCIP) against the demolition orders of petitioners.

The following undisputed facts are culled from the assailed Decision:

> The case stemmed from the three (3) Demolition Orders issued by the City Mayor of Baguio City, Braulio D. Yaranon, ordering the demolition of the illegal structures constructed by Lazaro Bawas, Alexander Ampaguey, Sr. and a certain Mr. Basatan on a portion of the Busol Watershed Reservation located at Aurora Hill, Baguio City, without the required building permits and in violation of Section 69 of Presidential Decree No. 705, as amended, Presidential Decree No. 1096 and Republic Act No. 7279.
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> Pursuant thereto, the corresponding demolition advices dated September 19, 2006 were issued informing the occupants thereon of the intended demolition of the erected structures on October 17 to 20, 2006. Consequently, Elvin Gumangan, Narciso Basatan and Lazaro Bawas (hereinafter private respondents) filed a petition for injunction with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction against the Office of the City Mayor of Baguio City through its Acting City Mayor, Reynaldo Bautista, the City Building and Architecture Office, the Anti-Squatting Task Force, and the Public Order and Safety Division, among others, (collectively called petitioners) before the National Commission on Indigenous Peoples, Cordillera Administrative Region (NCIP-CAR), Regional Hearing Office, La Trinidad, Benguet, docketed as Case No. 31-CAR-06.
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> In their petition, private respondents basically claimed that the lands where their residential houses stand are their ancestral lands which they have been occupying and possessing openly and continuously since time immemorial; that their ownership thereof have been expressly recognized in Proclamation No. 15 dated April 27, 1922 and recommended by the Department of Environment and Natural Resources (DENR) for exclusion from the coverage of the Busol Forest Reserve. They, thus, contended that the demolition of their residential houses is a violation of their right of possession and ownership of ancestral lands accorded by the Constitution and the law, perforce, must be restrained.
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> On October 16 and 19, 2006, Regional Hearing Officer Atty. Brain S. Masweng of the NCIP issued the two (2)

> assailed temporary restraining orders (TRO) directing the petitioners and all persons acting for and in their behalf to refrain from enforcing Demolition Advice dated September 18, 2006; Demolition Order dated September 19, 2006; Demolition Order No. 25, Series of 2004; Demolition Order No. 33, Series of 2005; and Demolition Order No. 28, Series of 2004, for a total period of twenty (20) days.
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> Subsequently, the NCIP issued the other assailed Resolution dated November 10, 2006 granting the private respondents' application for preliminary injunction subject to the posting of an injunctive bond each in the amount of P10,000.00.[3]

Acting on the petition for certiorari filed by petitioners,[4] the Court of Appeals upheld the jurisdiction of the NCIP over the action filed by private respondents and affirmed the temporary restraining orders dated October 16[5] and 19, 2006,[6] and the Resolution dated November 10, 2006,[7] granting the application for a writ of preliminary injunction, issued by the NCIP. The appellate court also ruled that Baguio City is not exempt from the coverage of Republic Act No. 8371, otherwise known as the Indigenous Peoples Rights Act of 1997 (IPRA).

Petitioners assert that the NCIP has no jurisdiction to hear and decide main actions for injunction such as the one filed by private respondents. They claim that the NCIP has the authority to issue temporary restraining orders and writs of preliminary injunction only as auxiliary remedies to cases pending before it.

Further, the IPRA provides that Baguio City shall be governed by its Charter. Thus, private respondents cannot claim their alleged ancestral lands under the provisions of the IPRA.

Petitioners contend that private respondents are not entitled to the protection of an injunctive writ because they encroached upon the Busol Forest Reservation and built structures thereon without the requisite permit. Moreover, this Court, in Heirs of Gumangan v. Court of Appeals,[8] had already declared that the Busol Forest Reservation is inalienable and possession thereof, no matter how long, cannot convert the same into private property. Even assuming that private respondents have a pending application for ancestral land claim, their right is at best contingent and cannot come under the protective mantle of injunction.

Petitioners also claim that the Busol Forest Reservation is exempt from ancestral claims as it is needed for public welfare. It is allegedly one of the few remaining forests in Baguio City and is the city's main watershed.

Finally, petitioners contend that the demolition orders were issued pursuant to the police power of the local government.

In their Comment[9] dated March 1, 2007, private respondents defend the jurisdiction of the NCIP to take cognizance of and decide main actions for injunction arguing that the IPRA does not state that the NCIP may only issue such writs of injunction as auxiliary remedies. Private respondents also contend that the IPRA does not exempt Baguio City from its coverage nor does it state that there are no ancestral lands in Baguio City.

As members of the Ibaloi Indigenous Community native to Baguio City, private respondents are treated as squatters despite the fact that they hold native title to their ancestral land. The IPRA allegedly now recognizes ancestral lands held by native title as never to have been public lands.

Private respondents aver that the Busol Forest Reservation is subject to ancestral land claims. In fact, Proclamation No. 15[10] dated April 27, 1922, which declared the area a forest reserve, allegedly did not nullify the vested rights of private respondents over their ancestral lands and even identified the claimants of the particular portions within the forest reserve. This claim of ownership is an exception to the government's contention that the whole area is a forest reservation.

Lastly, private respondents assert that the power of the city mayor to order the demolition of certain structures is

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not absolute. Regard should be taken of the fact that private respondents cannot be issued building permits precisely because they do not have paper titles over their ancestral lands, a requirement for the issuance of a building permit under the National Building Code.

Petitioners' Reply to Comment[11] dated June 11, 2008 merely reiterates their previous arguments.

We shall first dispose of the elemental issue of the NCIP's jurisdiction.

The NCIP is the primary government agency responsible for the formulation and implementation of policies, plans and programs to protect and promote the rights and well-being of indigenous cultural communities/indigenous peoples (ICCs/IPs) and the recognition of their ancestral domains as well as their rights thereto.[12] In order to fully effectuate its mandate, the NCIP is vested with jurisdiction over all claims and disputes involving the rights of ICCs/IPs. The only condition precedent to the NCIP's assumption of jurisdiction over such disputes is that the parties thereto shall have exhausted all remedies provided under their customary laws and have obtained a certification from the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved.[13]

In addition, NCIP Administrative Circular No. 1-03 dated April 9, 2003, known as the Rules on Pleadings, Practice and Procedure Before the NCIP, reiterates the jurisdiction of the NCIP over claims and disputes involving ancestral lands and enumerates the actions that may be brought before the commission. Sec. 5, Rule III thereof provides:

> 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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> (1) Original and Exclusive Jurisdiction of the Regional Hearing Office (RHO):
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> - Cases involving disputes and controversies over ancestral lands/domains of ICCs/IPs;
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> - Cases involving violations of the requirement of free and prior and informed consent of ICCs/IPs;
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> - Actions for enforcement of decisions of ICCs/IPs involving violations of customary laws or desecration of ceremonial sites, sacred places, or rituals;
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> - Actions for redemption/reconveyance under Section 8(b) of R.A. 8371; and
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> - Such other cases analogous to the foregoing.
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> (2) Original Jurisdiction of the Regional Hearing Officer:
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> - 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
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> - Actions for damages arising out of any violation of Republic Act No. 8371.
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> (3) Exclusive and Original Jurisdiction of the Commission:
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> - 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.

In order to determine whether the NCIP has jurisdiction over the dispute in accordance with the foregoing provisions, it is necessary to resolve, on the basis of the allegations in their petition, whether private respondents

are members of ICCs/IPs. In their petition[14] filed before the NCIP, private respondents, members of the Ibaloi tribe who first settled in Baguio City, were asserting ownership of portions of the Busol Forest Reservation which they claim to be their ancestral lands. Correctly denominated as a petition for injunction as it sought to prevent the enforcement of the demolition orders issued by the City Mayor, the petition traced private respondents' ancestry to Molintas and Gumangan and asserted their possession, occupation and utilization of their ancestral lands. The petition also alleged that private respondents' claim over these lands had been recognized by Proclamation No. 15 which mentions the names of Molintas and Gumangan as having claims over portions of the Busol Forest Reservation.[15]

Clearly then, the allegations in the petition, which axiomatically determine the nature of the action and the jurisdiction of a particular tribunal,[16] squarely qualify it as a "dispute(s) or controversy(s) over ancestral lands/domains of ICCs/IPs" within the original and exclusive jurisdiction of the NCIP-RHO.

The IPRA, furthermore, endows the NCIP with the power to issue temporary restraining orders and writs of injunction. Sec. 69 thereof states:

> Sec. 69. Quasi-Judicial Powers of the NCIP.--The NCIP shall have the power and authority:
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> a) To promulgate rules and regulations governing the hearing and disposition of cases filed before it as well as those pertaining to its internal functions and such rules and regulations as may be necessary to carry out the purposes of this Act;
>
> b) To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, agreements, and other document of similar nature as may be material to a just determination of the matter under investigation or hearing conducted in pursuance of this Act;
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> c) To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor; and
>
> d) To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic activity. [Emphasis supplied]

NCIP Administrative Circular No. 1-03 echoes the above-quoted provision in Sec. 82, Rule XV, which provides:

> Sec. 82. Preliminary Injunction and Temporary Restraining Order.--A writ of preliminary injunction or restraining order may be granted by the Commission pursuant to the provisions of Sections 59 and 69 of R.A. [No.] 8371 when it is established, on the basis of sworn allegations in a petition, that the acts complained of involving or arising from any case, if not restrained forthwith, may cause grave or irreparable damage or injury to any of the parties, or seriously affect social or economic activity. This power may also be exercised by RHOs in cases pending before them in order to preserve the rights of the parties.

As can be gleaned from the foregoing provisions, the NCIP may issue temporary restraining orders and writs of injunction without any prohibition against the issuance of the writ when the main action is for injunction. The power to issue temporary restraining orders or writs of injunction allows parties to a dispute over which the NCIP has jurisdiction to seek relief against any action which may cause them grave or irreparable damage or injury. In this case, the Regional Hearing Officer issued the injunctive writ because its jurisdiction was called upon to protect and preserve the rights of private respondents who are undoubtedly members of ICCs/IPs.

Parenthetically, in order to reinforce the powers of the NCIP, the IPRA even provides that no restraining order or preliminary injunction may be issued by any inferior court against the NCIP in any case, dispute or controversy arising from or necessary to the interpretation of the IPRA and other laws relating to ICCs/IPs and ancestral

domains.[17]

Petitioners argue that Baguio City is exempt from the provisions of the IPRA, and necessarily the jurisdiction of the NCIP, by virtue of Sec. 78 thereof, which states:

> SEC. 78. Special Provision.--The City of Baguio shall remain to be governed by its Charter and all lands proclaimed as part of its townsite reservation shall remain as such until otherwise reclassified by appropriate legislation: Provided, That prior land rights and titles recognized and/or acquired through any judicial, administrative or other processes before the effectivity of this Act shall remain valid: Provided, further, That this provision shall not apply to any territory which becomes part of the City of Baguio after the effectivity of this Act. [Emphasis supplied]

The foregoing provision indeed states that Baguio City is governed by its own charter. Its exemption from the IPRA, however, cannot ipso facto be deduced because the law concedes the validity of prior land rights recognized or acquired through any process before its effectivity. The IPRA demands that the city's charter respect the validity of these recognized land rights and titles.

The crucial question to be asked then is whether private respondents' ancestral land claim was indeed recognized by Proclamation No. 15, in which case, their right thereto may be protected by an injunctive writ. After all, before a writ of preliminary injunction may be issued, petitioners must show that there exists a right to be protected and that the acts against which injunction is directed are violative of said right.[18]

Proclamation No. 15, however, does not appear to be a definitive recognition of private respondents' ancestral land claim. The proclamation merely identifies the Molintas and Gumangan families, the predecessors-in-interest of private respondents, as claimants of a portion of the Busol Forest Reservation but does not acknowledge vested rights over the same. In fact, Proclamation No. 15 explicitly withdraws the Busol Forest Reservation from sale or settlement. It provides:

> Pursuant to the provisions of section eighteen hundred and twenty-six of Act Numbered Twenty-seven Hundred and eleven[,] I hereby establish the Busol Forest Reservation to be administered by the Bureau of Forestry for the purpose of conserving and protecting water and timber, the protection of the water supply being of primary importance and all other uses of the forest are to be subordinated to that purpose. I therefore withdraw from sale or settlement the following described parcels of the public domain situated in the Township of La Trinidad, City of Baguio, Mountain Province, Island of Luzon, to wit:

The fact remains, too, that the Busol Forest Reservation was declared by the Court as inalienable in Heirs of Gumangan v. Court of Appeals.[19] The declaration of the Busol Forest Reservation as such precludes its conversion into private property. Relatedly, the courts are not endowed with jurisdictional competence to adjudicate forest lands.

All told, although the NCIP has the authority to issue temporary restraining orders and writs of injunction, we are not convinced that private respondents are entitled to the relief granted by the Commission.

WHEREFORE, the instant petition is GRANTED. The Decision of the Court of Appeals in CA G.R. SP No. 96895 dated April 16, 2007 and its Resolution dated September 11, 2007 are REVERSED and SET ASIDE. Case No. 31-CAR-06 entitled, Elvin Gumangan, Narciso Basatan and Lazaro Bawas v. Office of the City Mayor of Baguio City, et al. is DISMISSED. No pronouncement as to costs.

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SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Velasco, Jr., and Brion, JJ., Concur.

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[1] Rollo, pp. 30-37; Penned by Associate Justice Estela M. Perlas-Bernabe and concurred in by Associate Justices Marina L. Buzon and Lucas P. Bersamin.

[2] Id. at 39-40.

[3] Id. at 31-35.

[4] CA rollo, pp. 2-23.

[5] Id. at 24-26.

[6] Id. at 27-33.

[7] Id. at 34-38.

[8] G.R. Nos. 75672 and 75673, April 19, 1989, 172 SCRA 563.

[9] Rollo, pp. 186-203.

[10] CA rollo, pp. 85-87.

[11] Rollo, pp. 228-233.

[12] Rep. Act No. 8371 (1997), Sec. 3k and Sec. 38.

[13] Rep. Act No. 8371 (1997), Sec. 66.

[14] CA rollo, pp. 78-84.

[15] Id. at 86-87.

[16] Abacus Securities Corporation v. Ampil, G.R. No. 160016, February 27, 2006, 483 SCRA 315; Ballesteros v. Abion, G.R. No. 143361, February 9, 2006; 482 SCRA 23.

[17] REP. Act No. 8371 (1997), Sec. 70.

[18] Viray v. Court of Appeals, G.R. No. 92481, November 9, 1990, 191 SCRA 308.

[19] Supra note 8.

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