EN BANC

G.R. No. 181284 – 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,* **v. 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.*

Promulgated:

October 20, 2015

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CONCURRING OPINION

PEREZ, *J.:*

While I agree with the holding in this case that jurisdiction over the original and amended complaint, *accion reivindicatoria* and injunction, before the court *a quo*, correctly lies with the Regional Trial Courts (RTCs): (1) an *accion reivindicatoria*, a civil action involving interest in real property with an assessed value of ₱683,760.00; and (2) an injunction, a civil action incapable of pecuniary estimation, I offer my view on the complex nature of the jurisdiction of the National Commission of Indigenous Peoples (NCIP) conferred in the Indigenous People's Rights Act (IPRA), Republic Act No. 8371.

Even if in this case the complaint was amended from an *accion reivindicatoria* to one for injunction, both containing allegations clearly falling within the RTCs jurisdiction, petitioners insist and maintain that as indigenous persons, except for two (2) petitioners, with the subject property claimed as their ancestral land, the NCIP has exclusive and original jurisdiction over the case. For the petitioners, with a submission that the

ponencia already dismissed, the mere fact that this case involves members of Indigenous Cultural Communities/Indigenous Persons (ICCs/IPs) and their ancestral land, automatically endows the NCIP, under Section 66 of the IPRA, with jurisdiction over petitioners' complaint. Even the NCIP is of the view of its original and exclusive jurisdiction over both the original and amended complaints. Hence, the two (2) Motions to Refer the Case to the Regional Hearing Office-National Commission on Indigenous Peoples (RHO-NCIP) filed by the NCIP Hearing Officer before the court *a quo*.

I concur with the *ponencia* on the basis of the principle that "jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint, and that the averments in the complaint and the character of the relief sought are the ones to be consulted." As clearly delineated in the *ponencia*, upon a careful review of Section 66 and based on the qualifying proviso, 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. And, as clearly alleged by the petitioners in their complaint, the defendants they impleaded are not indigenous people.

I submit 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.*[1] of the NCIP's jurisdiction over cases where one of the parties are not ICCs/IPs.

Jurisdiction is the power and authority, conferred by the Constitution and by statute, to hear and decide a case.[2] The authority to decide a cause at all is what makes up jurisdiction.

The enabling statute, Section 66 of the IPRA, is the measure of quasi-judicial powers the NCIP may exercise:[3]

> Sec. 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 conferment of such jurisdiction is consistent with state policy averred in the IPRA which recognizes and promotes all the rights of

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1 G.R. No. 180206, 597 Phil. 668 (2009).

2 *Bank of Commerce v. Planters Development Bank*, G.R. Nos. 154470-71 and G.R. Nos. 154589-90, September 24, 2012, 681 SCRA 521, 556.

3 Id.

ICCs/IPs within the framework of the Constitution. Such is likewise reflected in the mandate of the NCIP to protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions.[4]

The other provisions point out that the NCIP is the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as their rights thereto.[5] Nonetheless, the creation of such a government agency does not *per se* grant it primary and/or exclusive and original jurisdiction, excluding the regular courts from taking cognizance, and exercising jurisdiction over cases which may involve rights of ICCs/IPs.

Significantly, while Section 66 uses the word "all" to qualify the ICCs/IPs "claims and disputes" covered by NCIP jurisdiction, it unmistakably contains the proviso, that restrains or limits the initial generality of the grant of jurisdiction.

As outlined in the *ponencia*, the elements of the grant of jurisdiction to the NCIP are: (1) the claim and dispute involves the rights of ICCs/IPs; **and** (2) both parties have exhausted all remedies provided under their customary laws. Both elements must be present prior to the invocation and exercise of the NCIP's jurisdiction.

We cannot, therefore, be confined to the first phrase that the NCIP shall have jurisdiction over all claims and disputes involving rights of ICCs/IPs and therefrom deduce primary sole NCIP jurisdiction over all ICCs/IPs claims and disputes **to the exclusion of the regular courts.** If it were the legislative intention that: (1) the NCIP exercise primary jurisdiction over, and/or (2) the regular courts be excluded from taking cognizance of, claims and disputes involving rights of ICCs/IPs, the legislature could have easily done so as in other instances conferring primary, and original and exclusive jurisdiction to a specific administrative body.

Primary jurisdiction, also known as the doctrine of Prior Resort, is the power and authority vested by the Constitution or by statute upon an administrative body to act upon a matter by virtue of its specific competence.[6] The doctrine of primary jurisdiction prevents the court from arrogating unto itself the authority to resolve a controversy which falls under the jurisdiction of a tribunal possessed with special competence.[7] In one occasion, we have held that regular courts cannot or should not determine a

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4 Section 39 IPRA.
5 Section 38 IPRA.
6 *Cristobal v. Court of Appeals*, G.R. No. 125339, June 22, 1998, 291 SCRA 122, 132.
7 See *Crusaders Broadcasting System, Inc. v. NTC,* 388 Phil. 624, 636 (2000).

controversy involving a question which is within the jurisdiction of the administrative tribunal before the question is resolved by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience and services of the administrative tribunal to determine technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the purposes of the regulatory statute administered.[8] The objective of the doctrine of primary jurisdiction is "to guide a court in determining whether it should refrain from exercising its jurisdiction until after an administrative agency has determined some question arising in the proceeding before the court."[9]

Additionally, primary jurisdiction does not necessarily denote exclusive jurisdiction.[10] It applies where a claim is originally cognizable in the courts and comes into play whenever enforcement of the claim requires the resolution of issues which, under a regulatory scheme, has been placed within the special competence of an administrative body; in such case, the judicial process is suspended pending referral of such issues to the administrative body for its view.[11] In some instances, the Constitution and statutes grant the administrative body primary jurisdiction, concurrent with either similarly authorized government agencies or the regular courts, such as the distinct kinds of jurisdiction bestowed by the Constitution and statutes on the Ombudsman.

The case of *Honasan II v. The Panel of Investigating Prosecutors of the Department of Justice*[12] delineated primary and concurrent jurisdiction as opposed to original and exclusive jurisdiction vested by both the Constitution and statutes[13] on the Ombudsman concurrent, albeit primary, with the Department of Justice.

> Paragraph (1) of Section 13, Article XI of the Constitution, *viz*:
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> SEC. 13. *The Office of the Ombudsman shall have the following powers, functions, and duties:*
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> 1. Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.
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> does not exclude other government agencies tasked by law to investigate and prosecute cases involving public officials. If it were the intention of the framers of the 1987 Constitution, they would have expressly declared the exclusive conferment of the power to the Ombudsman. Instead, paragraph (8) of the same Section 13 of the Constitution provides:

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8 *Sps. Abejo v. Judge De la Cruz*, 233 Phil. 668, 684-685 (1987).

9 *Fabia v. Court of Appeals*, 437 Phil. 389, 403 (2002).

10 *Honasan II v. The Panel of Investigating Prosecutors of the Department of Justice*, G.R. No. 159747, April 13, 2004, 427 SCRA 46, 67.

11 *Supra* note 9.

12 *Supra* note 10.

13 Republic Act No. 6770, known as "The Ombudsman Act of 1989" and the "1987 Administrative Code."

(8) Promulgate its rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law.

Accordingly, Congress enacted R.A. 6770, otherwise known as "The Ombudsman Act of 1989." Section 15 thereof provides:

Sec. 15. Powers, Functions and Duties. - The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. *It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of the government, the investigation of such cases.*

Pursuant to the authority given to the Ombudsman by the Constitution and the Ombudsman Act of 1989 to lay down its own rules and procedure, the Office of the Ombudsman promulgated Administrative Order No. 8, dated November 8, 1990, entitled, *Clarifying and Modifying Certain Rules of Procedure of the Ombudsman*, to wit:

A complaint filed in or taken cognizance of by the Office of the Ombudsman charging any public officer or employee including those in government-owned or controlled corporations, with an act or omission alleged to be illegal, unjust, improper or inefficient is an Ombudsman case. Such a complaint may be the subject of criminal or administrative proceedings, or both.

For purposes of investigation and prosecution, Ombudsman cases involving criminal offenses may be subdivided into two classes, to wit: (1) those cognizable by the Sandiganbayan, and (2) those falling under the jurisdiction of the regular courts. The difference between the two, aside from the category of the courts wherein they are filed, is on the authority to investigate as distinguished from the authority to prosecute, such cases.

The power to investigate or conduct a preliminary investigation on any Ombudsman case may be exercised by an investigator or prosecutor of the Office of the Ombudsman, or by any Provincial or City Prosecutor or their assistance, either in their regular capacities or as deputized Ombudsman prosecutors.

The prosecution of cases cognizable by the Sandiganbayan shall be under the direct exclusive control and supervision of the Office of the Ombudsman. In cases cognizable by the regular Courts, the control and supervision by the Office of the Ombudsman is only in Ombudsman cases in the sense defined above. The law recognizes a concurrence of jurisdiction between the Office of the Ombudsman and other investigative agencies of the government in the prosecution of cases cognizable by regular courts.

It is noteworthy that as early as 1990, the Ombudsman had properly differentiated the authority to investigate cases from the authority to prosecute cases. It is on this note that the Court will first dwell on the nature or extent of the authority of the Ombudsman to

investigate cases. Whence, focus is directed to the second sentence of paragraph (1), Section 15 of the Ombudsman Act which specifically provides that the Ombudsman has primary jurisdiction over cases cognizable by the Sandiganbayan, and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigating agency of the government, the investigation of such cases.

That the power of the Ombudsman to investigate offenses involving public officers or employees is not exclusive but is concurrent with other similarly authorized agencies of the government such as the provincial, city and state prosecutors has long been settled in several decisions of the Court. (Emphasis supplied)

In *Cojuangco, Jr. vs. Presidential Commission on Good Government*, decided in 1990, the Court expressly declared:

A reading of the foregoing provision of the Constitution does not show that the power of investigation including preliminary investigation vested on the Ombudsman is exclusive.

Interpreting the primary jurisdiction of the Ombudsman under Section 15 (1) of the Ombudsman Act, the Court held in said case:

Under Section 15 (1) of Republic Act No. 6770 aforecited, the Ombudsman has primary jurisdiction over cases cognizable by the Sandiganbayan so that it may take over at any stage from any investigatory agency of the government, the investigation of such cases. *The authority of the Ombudsman to investigate offenses involving public officers or employees is not exclusive but is concurrent with other similarly authorized agencies of the government. Such investigatory agencies referred to include the PCGG and the provincial and city prosecutors and their assistants, the state prosecutors and the judges of the municipal trial courts and municipal circuit trial court.*

In other words the provision of the law has opened up the authority to conduct preliminary investigation of offenses cognizable by the Sandiganbayan to all investigatory agencies of the government duly authorized to conduct a preliminary investigation under Section 2, Rule 112 of the 1985 Rules of Criminal Procedure with the only qualification that the Ombudsman may take over at any stage of such investigation in the exercise of his primary jurisdiction.

A little over a month later, the Court, in *Deloso vs. Domingo*, pronounced that the Ombudsman, under the authority of Section 13 (1) of the 1987 Constitution, has jurisdiction to investigate any crime committed by a public official, elucidating thus:

As protector of the people, the office of the Ombudsman has the power, function and duty to "act promptly on complaints filed in any form or manner against public officials" (Sec. 12) and to "investigate x x x any act or omission of any public official x x x when such act or omission appears to be illegal, unjust, improper or inefficient." (Sec. 13.) The Ombudsman is also empowered to "direct the officer concerned," in this case the Special Prosecutor, "to take appropriate action against a public official x x x and to recommend his prosecution" (Sec. 13).

The clause "any [illegal] act or omission of any public official" is broad enough to embrace any crime committed by a public official. The law does not qualify the nature of the illegal act or omission of the public official or employee that the Ombudsman may investigate. It does not require that the act or omission be related to or be connected with or arise from, the performance of official duty. Since the law does not distinguish, neither should we.

The reason for the creation of the Ombudsman in the 1987 Constitution and for the grant to it of broad investigative authority, is to insulate said office from the long tentacles of officialdom that are able to penetrate judges' and fiscals' offices, and others involved in the prosecution of erring public officials, and through the exertion of official pressure and influence, quash, delay, or dismiss investigations into malfeasances and misfeasances committed by public officers. It was deemed necessary, therefore, to create a special office to investigate *all* criminal complaints against public officers regardless of whether or not the acts or omissions complained of are related to or arise from the performance of the duties of their office. The Ombudsman Act makes perfectly clear that the jurisdiction of the Ombudsman encompasses "*all kinds of malfeasance, misfeasance, and non-feasance* that have been committed by *any officer or employee* as mentioned in Section 13 hereof, during his tenure of office" (Sec. 16, R.A. 6770).

Indeed, the labors of the constitutional commission that created the Ombudsman as a special body to investigate erring public officials would be wasted if its jurisdiction were confined to the investigation of minor and less grave offenses arising from, or related to, the duties of public office, but would exclude those grave and terrible crimes that spring from abuses of official powers and prerogatives, for it is the investigation of the latter where the need for an independent, fearless, and honest investigative body, like the Ombudsman, is greatest.

At first blush, there appears to be conflicting views in the rulings of the Court in the *Cojuangco, Jr*. case and the *Deloso* case. However, the contrariety is more apparent than real. In subsequent cases, the Court elucidated on the nature of the powers of the Ombudsman to investigate.

In 1993, the Court held in *Sanchez vs. Demetriou*, that while it may be true that the Ombudsman has jurisdiction to investigate and prosecute any illegal act or omission of any public official, the authority of the Ombudsman to investigate is merely a primary and not an exclusive authority, thus:

The Ombudsman is indeed empowered under Section 15, paragraph (1) of RA 6770 to investigate and prosecute any illegal act or omission of any public official. However as we held only two years ago in the case of Aguinaldo vs. Domagas, this authority "is not an exclusive authority but rather a shared or concurrent authority in respect of the offense charged."

Petitioners finally assert that the information and amended information filed in this case needed the approval of the Ombudsman. It is not disputed that the information and amended information here did not have the approval of the Ombudsman. However, we do not believe that such approval was necessary at all. In Deloso v. Domingo, 191 SCRA 545 (1990), the Court held that the Ombudsman has authority to investigate

charges of illegal acts or omissions on the part of any public official, i.e., any crime imputed to a public official. *It must, however, be pointed out that the authority of the Ombudsman to investigate "any [illegal] act or omission of any public official" (191 SCRA 550) is not an exclusive authority but rather a shared or concurrent authority in respect of the offense charged,* i.e., the crime of sedition. Thus, the non-involvement of the office of the Ombudsman in the present case does not have any adverse legal consequence upon the authority of the panel of prosecutors to file and prosecute the information or amended information.

In fact, other investigatory agencies of the government such as the Department of Justice in connection with the charge of sedition, and the Presidential Commission on Good Government, in ill gotten wealth cases, may conduct the investigation.

In *Natividad vs. Felix*, a 1994 case, where the petitioner municipal mayor contended that it is the Ombudsman and not the provincial fiscal who has the authority to conduct a preliminary investigation over his case for alleged Murder, the Court held:

The *Deloso* case has already been re-examined in two cases, namely*Aguinaldo vs. Domagas* and *Sanchez vs. Demetriou*. However, by way of amplification, we feel the need for tracing the history of the legislation relative to the jurisdiction of Sandiganbayan since the Ombudsman's primary jurisdiction is dependent on the cases cognizable by the former.

In the process, we shall observe how the policy of the law, with reference to the subject matter, has been in a state of flux.

These laws, in chronological order, are the following: (a) Pres. Decree No. 1486, -- the first law on the Sandiganbayan; (b) Pres. Decree No. 1606 which expressly repealed Pres. Decree No. 1486; (c) Section 20 of Batas Pambansa Blg. 129; (d) Pres. Decree No. 1860; and (e) Pres. Decree No. 1861.

The latest law on the Sandiganbayan, Sec. 1 of Pres. Decree No. 1861 reads as follows:

"SECTION 1. Section 4 of Presidential Decree No. 1606 is hereby amended to read as follows:

'SEC. 4. *Jurisdiction*. – The Sandiganbayan shall exercise:
'(a) Exclusive original jurisdiction in all cases involving:

(2) Other offenses or felonies committed by public officers and employees *in relation to their office*, including those employed in government-owned or controlled corporation, whether simple or complexed with other crimes, where the penalty prescribed by law is higher that prision correccional or imprisonment for six (6) years, or a fine of P6,000: PROVIDED, HOWEVER, that offenses or felonies mentioned in this paragraph where the penalty prescribed by law does not exceed prision correccional or imprisonment for six (6) years or a fine of ₱6,000 shall be tried by the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court and Municipal Circuit Trial Court."

A perusal of the aforecited law shows that two requirements must concur under Sec. 4 (a) (2) for an offense to fall under the Sandiganbayan's jurisdiction, namely: the offense committed by the public officer must be in relation to his office and the penalty prescribed be higher then *prision correccional* or imprisonment for six (6) years, or a fine of ₱6,000.00.

Applying the law to the case at bench, we find that although the second requirement has been met, the first requirement is wanting. A review of these Presidential Decrees, except Batas Pambansa Blg. 129, would reveal that the crime committed by public officers or employees must be "in relation to their office" if it is to fall within the jurisdiction of the Sandiganbayan. This phrase which is traceable to Pres. Decree No. 1468, has been retained by Pres. Decree No. 1861 as a requirement before the Ombudsman can acquire primary jurisdiction on its power to investigate.

It cannot be denied that Pres. Decree No. 1861 is in pari materia to Article XI, Sections 12 and 13 of the 1987 Constitution and the Ombudsman Act of 1989 because, as earlier mentioned, the Ombudsman's power to investigate is dependent on the cases cognizable by the Sandiganbayan. Statutes are in pari materia when they relate to the same person or thing or to the same class of persons or things, or object, or cover the same specific or particular subject matter.

It is axiomatic in statutory construction that a statute must be interpreted, not only to be consistent with itself, but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. The rule is expressed in the maxim, "interpretare et concordare legibus est optimus interpretandi," or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence. Thus, in the application and interpretation of Article XI, Sections 12 and 13 of the 1987 Constitution and the Ombudsman Act of 1989, Pres. Decree No. 1861 must be taken into consideration. It must be assumed that when the 1987 Constitution was written, its framers had in mind previous statutes relating to the same subject matter. In the absence of any express repeal or amendment, the 1987 Constitution and the Ombudsman Act of 1989 are deemed in accord with existing statute, specifically, Pres. Decree No. 1861.

R.A. No. 8249 which amended Section 4, paragraph (b) of the Sandiganbayan Law (P.D. 1861) likewise provides that for other offenses, aside from those enumerated under paragraphs (a) and (c), to fall under the exclusive jurisdiction of the Sandiganbayan, they must have been committed by public officers or employees in relation to their office.

In summation, the Constitution, Section 15 of the Ombudsman Act of 1989 and Section 4 of the Sandiganbayan Law, as amended, do not give to the Ombudsman exclusive jurisdiction to investigate offenses committed by public officers or employees. The authority of the Ombudsman to investigate offenses involving public officers or employees is concurrent with other government investigating agencies such as provincial, city and state prosecutors. However, the Ombudsman, in the exercise of its primary jurisdiction over cases cognizable by the Sandiganbayan, may take over, at any stage, from any investigating agency of the government, the investigation of such cases.

> **In other words, respondent DOJ Panel is not precluded from conducting any investigation of cases against public officers involving violations of penal laws but if the cases fall under the exclusive jurisdiction of the Sandiganbayan, then respondent Ombudsman may, in the exercise of its primary jurisdiction take over at any stage**. (Emphasis supplied)
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> xxx xxx
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> **To reiterate for emphasis, the power to investigate or conduct preliminary investigation on charges against any public officers or employees may be exercised by an investigator or by any provincial or city prosecutor or their assistants, either in their regular capacities or as deputized Ombudsman prosecutors. The fact that all prosecutors are in effect deputized Ombudsman prosecutors under the OMB-DOJ Circular is a mere superfluity. The DOJ Panel need not be authorized nor deputized by the Ombudsman to conduct the preliminary investigation for complaints filed with it because the DOJ's authority to act as the principal law agency of the government and investigate the commission of crimes under the Revised Penal Code is derived from the Revised Administrative Code which had been held in the *Natividad* case as not being contrary to the Constitution. Thus, there is not even a need to delegate the conduct of the preliminary investigation to an agency which has the jurisdiction to do so in the first place. However, the Ombudsman may assert its primary jurisdiction at any stage of the investigation.** (Emphasis supplied)

I referred to *Honasan II* to emphasize the point that the NCIP cannot be said to have primary jurisdiction over all the ICC/IP cases comparable to what the Ombudsman has in cases falling under the exclusive jurisdiction of the Sandiganbayan. 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.

Here, I revert to the point on the investiture of primary and/or original and exclusive jurisdiction to an administrative body which in all instances of such grant was explicitly provided in the Constitution and/or the enabling statute, to wit:

1. Commission on Elections' exclusive original jurisdiction over all elections contests;[14]

2. Securities and Exchange Commission's original and exclusive jurisdiction over all cases enumerated under Section 5 of Presidential Decree

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[14] Article IX-C, Section 2, paragraph 2.
SEC. 2. The Commission on elections shall exercise the following powers and functions:
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(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction. x x x

No. 902-A[15] prior to its transfer to courts of general jurisdiction or the appropriate Regional Trial Court by virtue of Section 4 of the Securities Regulation Code;

3. Energy Regulatory Commission's original and exclusive jurisdiction over all cases contesting rates, fees, fines and penalties imposed by it in the exercise of its powers, functions and responsibilities;[16]

4. Department of Agrarian Reform's[17] primary jurisdiction to determine and adjudicate agrarian reform matters and its exclusive original jurisdiction over all matters involving the implementation of agrarian reform except those falling under the exclusive jurisdiction of the Department of Agriculture and the Department of Environment and Natural Resources;[18]

5. Construction Industry Arbitration Commission's original and exclusive jurisdiction over disputes involving contracts of construction, whether government or private, as long as the parties agree to submit the same to voluntary arbitration;[19]

6. Voluntary arbitrator or panel of voluntary arbitrators' original and exclusive jurisdiction over all unresolved grievances arising from the interpretation or implementation of the collective bargaining agreement and those arising from the interpretation or enforcement of company personnel policies;[20]

7. The National Labor Relations Commission's original and exclusive jurisdiction over cases listed in Article 217 of the Labor Code involving all workers, whether agricultural or non-agricultural; and

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15 **Section 5.** In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees**, it shall have original and exclusive jurisdiction** to hear and decide cases involving.
a) Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partnership, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholder, partners, members of associations or organizations registered with the Commission.
b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity; and
c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations.

16 RA 9136, Section 43, paragraph u.

17 Including the creation of the Department of Agrarian Reform Adjudication board (DARAB).

18 The DAR's jurisdiction under Section 50 of RA 6657 is two-fold: (1) Essentially executive and pertains to the enforcement and administration of laws, carrying them into practical operation and enforcing their due observance, while the second is judicial and involves the determination of rights and obligations of the parties.

19 Except for disputes arising from employer-employee relationships which shall continue to be covered by the Labor Code of the Philippines; EO No. 1008 or the Construction Industry Arbitration Law.

20 Articles 260-261 of the Labor Code.

8. Board of Commissioners of the Bureau of Immigration's primary and exclusive jurisdiction over all deportation cases.[21]

That the proviso found in Section 66 of the IPRA is exclusionary, specifically excluding disputes involving rights of IPs/ICCs where the opposing party is non-ICC/IP, is reflected in the IPRA's emphasis of customs and customary law to govern in the lives of the ICCs/IPs.

Indeed, non-ICCs/IPs cannot be subjected to the special and limited jurisdiction of the NCIP even if the dispute involves rights of ICCs/IPs since the NCIP has no power and authority to decide on a controversy **involving as well rights of non-ICCs/IPs which may be brought before a court of general jurisdiction within the legal bounds of rights and remedies**. Even as a practical concern, non-IPs and non-members of ICCs ought to be excepted from the NCIP's competence since it cannot determine the right-duty correlative, and breach thereof, between opposing parties who are ICCs/IPs and non-ICCs/IPs, the controversy necessarily contemplating application of other laws, not only customs and customary law of the ICCs/IPs. In short, 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.

In *San Miguel Corporation v. NLRC*,[22] the Court delineated the jurisdiction of the Labor Arbiter and the NLRC, specifically paragraph 3 thereof, as all money claims of workers, limited to "cases arising from employer-employee relations." The same clause was not expressly carried over, in printer's ink, in Article 217 as it exists today, but the Court ruled that such was a limitation on the jurisdiction of the Labor Arbiter and the NLRC, thus:

> The jurisdiction of Labor Arbiters and the National Labor Relations Commission is outlined in Article 217 of the Labor Code xxx:
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> "ART. 217. *Jurisdiction of Labor Arbiters and the Commission.* — (a) The Labor Arbiters shall have the *original and exclusive jurisdiction* to hear and decide within thirty (30) working days after submission of the case by the parties for decision, the following cases involving all workers, whether agricultural or non-agricultural:
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> 1. Unfair labor practice cases;
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> 2. Those that workers may file involving wages, hours of work and other terms and conditions of employment;
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> 3. *All money claims of workers, including those based on non-payment or underpayment of wages, overtime compensation, separation pay and other benefits provided by law or appropriate agreement,* except claims for

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21 Administrative Code of 1987, Book IV, Title III, Chapter 10, Section 31.

22 G.R. No. 80774, 244 Phil. 741, 747 (1988).

> employees' compensation, social security, medicare and maternity benefits;
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> 4. Cases involving household services; and
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> 5. Cases arising from any violation of Article 265 of this Code, including questions involving the legality of strikes and lockouts.
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> (b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters."
>
> While paragraph 3 above refers to "all money claims of workers," **it is not necessary to suppose that the entire universe of money claims that might be asserted by workers against their employers has been absorbed into the original and exclusive jurisdiction of Labor Arbiters.** In the first place, paragraph 3 should be read not in isolation from but rather within the context formed by paragraph 1 (relating to unfair labor practices), paragraph 2 (relating to claims concerning terms and conditions of employment), paragraph 4 (claims relating to household services, a particular species of employer-employee relations), and paragraph 5 (relating to certain activities prohibited to employees or to employers). It is evident that there is a unifying element which runs through paragraphs 1 to 5 and that is, that they all refer to cases or disputes arising out of or in connection with an employer-employee relationship. This is, in other words, a situation where the rule of *noscitur a sociis* may be usefully invoked in clarifying the scope of paragraph 3, and any other paragraph of Article 217 of the Labor Code, as amended. We reach the above conclusion from an examination of the terms themselves of Article 217, as last amended by BP Blg. 227, and even though earlier versions of Article 217 of the Labor Code expressly brought within the jurisdiction of the Labor Arbiters and the NLRC "cases arising from employer-employee relations," which clause was not expressly carried over, in printer's ink, in Article 217 as it exists today. For it cannot be presumed that money claims of workers which do not arise out of or in connection with their employer-employee relationship, and which would therefore fall within the general jurisdiction of the regular courts of justice, were intended by the legislative authority to be taken away from the jurisdiction of the courts and lodged with Labor Arbiters on an exclusive basis. The Court, therefore, believes and so holds that the "money claims of workers" referred to in paragraph 3 of Article 217 embraces money claims which arise out of or in connection the employer-employee relationship, or some aspect or incident of such relationship. Put a little differently, that money claims of workers which now fall within the original and exclusive jurisdiction of Labor Arbiters are those money claims which have some reasonable causal connection with the employer-employee relationship. (Emphasis supplied)

Clearly, the phraseology of "**all** claims and disputes involving rights of ICCs/IPs" does not necessarily grant the NCIP all-encompassing jurisdiction whenever the case involves rights of ICCs/IPs without regard to the status of the parties, *i.e.* whether the opposing parties are both ICCs/IPs.

In all, for the reason that under the provisions of the IPRA, specifically Section 66 thereof, the jurisdiction of the NCIP is special and limited, confined only to cases involving rights of IPs/ICCs, where both

such parties belong to the same ICC/IP, the original and amended complaint herein properly fall within the jurisdiction of the regular courts, specifically the RTC. Thus, I concur in the denial of the petition.

JOSE PORTUGAL PEREZ
Associate Justice

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