

Jurisdiction over Ancestral Domains: Reconciling the ARMM and IPRA Laws

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47 ATENELO L.J. 590 (2002)

SUBJECT(S): *INDIGENOUS PEOPLES, INDIGENOUS COMMUNITIES, INDIGENOUS PEOPLES RIGHTS ACT OF 1997, ANCESTRAL DOMAINS, ARMM*

KEYWORD(S): *INDIGENOUS PEOPLES, INDIGENOUS COMMUNITIES, INDIGENOUS PEOPLES RIGHTS ACT OF 1997, IPRA, ANCESTRAL DOMAINS, ARMM, LAND OWNERSHIP*

The Article seeks to reconcile the particular provisions of the Indigenous Peoples Rights Act of 1997 (IPRA) or Republic Act No. 8371 and the Autonomous Region of Muslim Mindanao (ARMM) Law (Republic Act No. 9054) on the jurisdiction over ancestral domains and lands of the indigenous peoples within the ARMM. It presents the conflict between the grant of the old ARMM Law to the Autonomous Regional Government (ARG) of the power to issue titles over ancestral domains and lands, and the grant of IPRA to the National Commission on Indigenous Peoples (NCIP) of the same power. It posits that while the IPRA is the more recent law, it does not amend the old ARMM Law because first, the latter is an organic law; and second, the Constitution, which prevails over any statute, has recognized that matters of ancestral domains and lands is properly within the scope of the powers of the autonomous regions.

It discusses how despite the appointment of a Deputy Governor for Indigenous Peoples pursuant to the new ARMM Law, the conflict still remains in the absence of an executive order delineating his powers, functions, duties and responsibilities. It also explores the possibility of devolution of powers of the NCIP to the ARG.

It likewise presents a draft of a proposed Regional Legislative Act and on this basis, recommends that a Regional Commission on Indigenous Peoples (RCIP) be created to serve as a local counterpart of the NCIP within the ARMM. The Article closes by emphasizing that the IPRA and the ARMM Law were enacted for the protection of the indigenous and the Bangsa Moro peoples respectively, and thus, the creation of the RCIP must equally consider their unique situations.