



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**CITY GOVERNMENT OF BAGUIO,
HEREIN REPRESENTED BY CITY
MAYOR REINALDO A. BAUTISTA,
JR.,**

Petitioner,

- versus -

ATTY. BRAIN S. MASWENG,
Respondent.

G.R. No. 188913

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

Promulgated:

FEB 19 2014

X -----X

DECISION

VILLARAMA, JR., J.:

Before this Court is a petition for contempt¹ against respondent Atty. Brain S. Masweng who issued the following orders in his capacity as the Regional Hearing Officer of the National Commission on Indigenous Peoples, Cordillera Administrative Region (NCIP-CAR):

- (1) 72-Hour Temporary Restraining Order² dated July 27, 2009, Order³ dated July 31, 2009 and Writ of Preliminary Injunction⁴ in NCIP Case No. 31-CAR-09 and
- (2) 72-Hour Temporary Restraining Order⁵ dated July 27, 2009, Order⁶ dated July 31, 2009 and Writ of Preliminary Injunction⁷ in NCIP Case No. 29-CAR-09.

The factual antecedents:

¹ Rollo, pp. 3-12.

² Annex "4," id. at 74-76.

³ Annex "6," id. at 85-97.

⁴ Annex "A," id. at 132-133.

⁵ Annex "7," id. at 98-100.

⁶ Annex "8," id. at 101-113.

⁷ Annex "D," id. at 149-150.

copy

Petitioner City Government of Baguio, through its then Mayor, issued Demolition Order No. 33, Series of 2005 and Demolition Order Nos. 25 and 28, Series of 2004, ordering the demolition of illegal structures that had been constructed on a portion of the Busol Watershed Reservation located at Aurora Hill, Baguio City, without the required building permits and in violation of Section 69⁸ of the Revised Forestry Code, as amended, the National Building Code⁹ and the Urban Development and Housing Act.¹⁰ Pursuant to said demolition orders, demolition advices dated September 19, 2006 were issued by the city government informing the occupants of the intended demolition of the structures on October 17 to 20, 2006.

On October 13, 2006, a petition for injunction with prayer for temporary restraining order and writ of preliminary injunction was filed by Elvin Gumangan, Narciso Basatan and Lazaro Bawas before the NCIP-CAR against the City of Baguio, The Anti-Squatting Committee, City Building and Architecture Office, and Public Order and Safety Office. The case was docketed as NCIP Case No. 31-CAR-06.

On October 16 and 19, 2006, herein respondent, Atty. Brain Masweng, the Regional Hearing Officer of the NCIP-CAR, issued two temporary restraining orders directing petitioner and all persons acting in its behalf from enforcing the demolition orders and demolition advices for a total period of 20 days. Subsequently, the NCIP-CAR, through respondent, granted the application for preliminary injunction.

On appeal, the Court of Appeals (CA) affirmed the injunctive writ issued by the NCIP-CAR against the demolition orders. The case was then elevated to this Court in **G.R. No. 180206** entitled, "*City Government of Baguio City v. Masweng*."¹¹

⁸ Presidential Decree (P.D.) No. 705, Section 69. *Unlawful occupation or destruction of forest lands*. Any person who enters and occupies or possesses, or makes kaingin for his own private use or for others any forest land without authority under a license agreement, lease, license or permit, or in any manner destroys such forest land or part thereof, or causes any damage to the timber stand and other products and forest growths found therein, or who assists, aids or abets any other person to do so, or sets a fire, or negligently permits a fire to be set in any forest land shall, upon conviction, be fined in an amount of not less than five hundred pesos (P500.00) nor more than twenty thousand pesos (P20,000.00) and imprisoned for not less than six (6) months nor more than two (2) years for each such offense, and be liable to the payment of ten (10) times the rental fees and other charges which would have been accrued had the occupation and use of the land been authorized under a license agreement, lease, license or permit: Provided, That in the case of an offender found guilty of making kaingin, the penalty shall be imprisoned for not less than two (2) nor more than (4) years and a fine equal to eight (8) times the regular forest charges due on the forest products destroyed, without prejudice to the payment of the full cost of restoration of the occupied area as determined by the Bureau.

The Court shall further order the eviction of the offender from the land and the forfeiture to the Government of all improvements made and all vehicles, domestic animals and equipment of any kind used in the commission of the offense. If not suitable for use by the Bureau, said vehicles shall be sold at public auction, the proceeds of which shall accrue to the Development Fund of the Bureau.

In case the offender is a government official or employee, he shall, in addition to the above penalties, be deemed automatically dismissed from office and permanently disqualified from holding any elective or appointive position.

⁹ P.D. No. 1096.

¹⁰ Republic Act No. 7279.

¹¹ G.R. No. 180206, February 4, 2009, 578 SCRA 88.

On February 4, 2009, this Court rendered a Decision reversing and setting aside the ruling of the CA and dismissed NCIP Case No. 31-CAR-06. This Court held that although the NCIP had the authority to issue temporary restraining orders and writs of injunction, Elvin Gumangan, et al., were not entitled to the relief granted by the NCIP-CAR. On April 22, 2009, this Court denied with finality the motion for reconsideration filed by Elvin Gumangan, et al. The decision thus became final and executory on June 9, 2009.¹²

Thereafter, petitioner, through the Office of the Mayor, issued Demolition Advices dated May 20, 2009¹³ and July 20, 2009¹⁴ against Alexander Ampaguey, Sr.,¹⁵ a certain Mr. Basatan, Julio Daluyen, Sr.,¹⁶ Carmen Panayo, and Concepcion Padang. Said Demolition Advices notified them that Demolition Order No. 33, Series of 2005 and Demolition Order No. 83, Series of 1999 will be enforced in July 2009 and advised them to voluntarily dismantle their structures built on the Busol Watershed.

On July 23, 2009, Magdalena Gumangan, Marion Pool, Lourdes Hermogeno, Bernardo Simon, Joseph Legaspi, Joseph Basatan, Marcelino Basatan, Josephine Legaspi and Lansigan Bawas filed a petition¹⁷ for the identification, delineation and recognition of their ancestral land and enforcement of their rights as indigenous cultural communities/indigenous peoples, with prayer for the issuance of a TRO and writ of preliminary injunction. The case was docketed as **NCIP Case No. 29-CAR-09**.

On July 27, 2009, Alexander Ampaguey, Sr., Julio Daluyen, Sr., Carmen Panayo and Concepcion Padang filed a petition¹⁸ for injunction with urgent prayer for issuance of a temporary restraining order and writ of preliminary injunction before the NCIP against petitioner and the City Building and Architecture Office. The case was docketed as **NCIP Case No. 31-CAR-09**. They averred that they are all indigenous people particularly of the Ibaloi and Kankanaey Tribes, who are possessors of residential houses and other improvements at Bayan Park and Ambiong, Aurora Hill, Baguio City by virtue of transfers effected in accordance with traditions and customary laws from the ancestral land claimants namely, the Heirs of Molintas and the Heirs of Gumangan. They sought to enjoin the enforcement of the demolition orders.

On the same day, July 27, 2009, respondent issued two separate 72-hour temporary restraining orders in NCIP Case Nos. 31-CAR-09¹⁹ and 29-

¹² *Rollo*, p. 166.

¹³ *Id.* at 40.

¹⁴ *Id.* at 43.

¹⁵ Alex Ampaguey, Sr. in some parts of the records.

¹⁶ Julio Daluyan in some parts of the records.

¹⁷ *Rollo*, pp. 114-123.

¹⁸ *Id.* at 31-39.

¹⁹ *Id.* at 74-76.

CAR-09.²⁰ The order in NCIP Case No. 31-CAR-09 restraining the implementation of the demolition advices and demolition orders reads:

WHEREFORE, premises considered, a Temporary Restraining Order pursuant to Section 69 (d) of R.A. [No.] 8371 in relation to Section 83 of NCIP Administrative Circular No. 1, series of 2003 is hereby issued against the respondents namely, CITY OF BAGUIO represented by City Mayor REINALDO BAUTISTA JR., CITY BUILDING AND ARCHITECTURE OFFICE represented by OSCAR FLORES and all persons under their instructions and acting for and in their behalves are hereby ordered to stay and refrain from implementing Demolition Advice dated May 20, 2009, Demolition Order No. 33 series of 2005, Demolition Advice dated July 20, 2009 and Demolition Order No. 69 series of 2002 within Seventy Two (72) Hours upon receipt of this order on the residential houses/structures of Alexander Ampaguey Sr., Julio Daluyen Sr., Concep[c]ion Padang and Carmen Panayo all located at Busol Water Reservation, Baguio City.²¹

In NCIP Case No. 29-CAR-09, petitioner and the City Building and Architecture Office, represented by Oscar Flores; Public Safety and Order Division, represented by Gregorio Deligero; the Baguio Demolition Team, represented by Engr. Nazeta Banez; and all persons under their instructions were ordered to refrain from demolishing the residential structures of Magdalena Gumangan, Marion Pool, Lourdes Hermogeno, Bernardo Simon, Joseph Legaspi, Joseph Basatan, Marcelino Basatan, Josephine Legaspi and Lansigan Bawas located at Busol Water Reservation.

Subsequently, respondent issued two separate Orders²² both dated July 31, 2009 in NCIP Case Nos. 29-CAR-09 and 31-CAR-09 extending the 72-hour temporary restraining orders for another 17 days.

On August 14, 2009, respondent issued a Writ of Preliminary Injunction²³ in NCIP Case No. 31-CAR-09, followed by a Writ of Preliminary Injunction²⁴ in NCIP Case No. 29-CAR-09.

Hence, this petition asserting that the restraining orders and writs of preliminary injunction were issued in willful disregard, disobedience, defiance and resistance of this Court's Decision in G.R. No. 180206 which dismissed the previous injunction case. Petitioner contends that respondent's act of enjoining the execution of the demolition orders and demolition advices is tantamount to allowing forum shopping since the implementation of the demolition orders over the structures in the Busol Forest Reservation had already been adjudicated and affirmed by this Court.

In his Comment,²⁵ respondent claims that he issued the restraining orders and writs of preliminary injunction in NCIP Case Nos. 31-CAR-09

²⁰ Id. at 98-100.

²¹ Id. at 75.

²² Id. at 85-97, 101-113.

²³ Id. at 132-133.

²⁴ Id. at 149-150.

²⁵ Id. at 173-190.

and 29-CAR-09 because his jurisdiction was called upon to protect and preserve the rights of the petitioners (in the NCIP cases) who were undoubtedly members of the indigenous cultural communities/indigenous peoples. He avers that his personal judgment and assessment of the allegations of the parties in their pleadings, as supported by their attachments, convinced him that the petitioners therein were entitled to such restraining orders and writs of injunction.

Respondent maintains that the orders and writs he issued did not disregard the earlier ruling of this Court in G.R. No. 180206. He points out that the Court has in fact affirmed the power of the NCIP to issue temporary restraining orders and writs of injunction without any prohibition against the issuance of said writs when the main action is for injunction. He adds that he was aware of the said pronouncement and had to rule on the matter so he extensively explained and laid out his legal basis for issuing the assailed orders and writs.

Respondent further posits that if petitioner believes that he committed an error in issuing his orders and resolutions, there are judicial remedies provided by law. Thus, petitioner could have filed a motion for reconsideration of the assailed orders and resolutions or a petition for review if such motion for reconsideration is denied. Petitioner likewise could have filed a motion for inhibition or a request for change of venue if it feels that valid ground exists to warrant the same.

The sole issue to be resolved is whether the respondent should be cited in contempt of court for issuing the subject temporary restraining orders and writs of preliminary injunction.

We rule in the affirmative.

The applicable provision is Section 3 of Rule 71 of the 1997 Rules of Civil Procedure, as amended, which states:

SEC. 3. *Indirect contempt to be punished after charge and hearing.* – After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

x x x x

b) **Disobedience of or resistance to a lawful writ, process, order, or judgment of a court**, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

x x x x (Emphasis supplied.)

Contempt of court is defined as a disobedience to the Court by acting in opposition to its authority, justice and dignity. It signifies not only a willful disregard or disobedience of the court's orders, but such conduct which tends to bring the authority of the court and the administration of law into disrepute or in some manner to impede the due administration of justice. Contempt of court is a defiance of the authority, justice or dignity of the court; such conduct as tends to bring the authority and administration of the law into disrespect or to interfere with or prejudice party litigants or their witnesses during litigation.²⁶

The power to punish for contempt is inherent in all courts and is essential to the preservation of order in judicial proceedings and to the enforcement of judgments, orders, and mandates of the court, and consequently, to the due administration of justice.²⁷ Only in cases of clear and contumacious refusal to obey should the power be exercised, however, such power, being drastic and extraordinary in its nature, should not be resorted to unless necessary in the interest of justice.²⁸ The court must exercise the power of contempt judiciously and sparingly, with utmost self-restraint, with the end in view of utilizing the same for correction and preservation of the dignity of the court, not for retaliation or vindication.²⁹

In this case, respondent was charged with indirect contempt for issuing the subject orders enjoining the implementation of demolition orders against illegal structures constructed on a portion of the Busol Watershed Reservation located at Aurora Hill, Baguio City.

In the Decision dated February 4, 2009 rendered in G.R. No. 180206, the Court indeed upheld the authority of the NCIP to issue temporary restraining orders and writs of injunction to preserve the rights of parties to a dispute who are members of indigenous cultural communities or indigenous peoples. However, the Court categorically ruled that Elvin Gumangan, et al., whose houses and structures are the subject of demolition orders issued by petitioner, are not entitled to the injunctive relief granted by herein respondent in his capacity as Regional Hearing Officer of the NCIP, thus:

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.

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

²⁶ *Roxas v. Tipon*, G.R. Nos. 160641 & 160642, June 20, 2012, 674 SCRA 52, 62.

²⁷ *Bank of the Philippine Islands v. Calanza*, G.R. No. 180699, October 13, 2010, 633 SCRA 186, 193.

²⁸ *Id.*

²⁹ *Heirs of Justice Reyes v. Court of Appeals*, 392 Phil. 827, 843 (2000).

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*. 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.**³⁰ (Emphasis supplied.)

Accordingly, the CA decision affirming the injunctive writ issued by respondent against the demolition orders of petitioner was reversed and set aside, and the petition for injunction (Case No. 31-CAR-06) was dismissed. In pursuance of the final Decision in G.R. No. 180206, petitioner issued the subject demolition advices for the enforcement of Demolition Order No. 33, Series of 2005 against Alexander Ampaguey, Sr. and Mr. Basatan, Demolition Order No. 83, Series of 1999 against Julio Daluyen, Sr., Concepcion Padang and Carmen Panayo, and Demolition Order No. 69, Series of 2002 against Julio Daluyen, Sr., Carmen Panayo, Benjamin Macelino, Herminia Aluyen and five other unidentified owners of structures, all in Busol Watershed, Baguio City. As it is, the aforesaid individuals filed a petition for injunction (Case No. 31-CAR-09) while Magdalena Gumangan, et al. filed a petition for identification, delineation and recognition of ancestral land claims with prayer for temporary restraining order and writ of preliminary injunction (Case No. 29-CAR-09). Respondent issued separate temporary restraining orders and writs of preliminary injunction in both cases.

The said orders clearly contravene our ruling in G.R. No. 180206 that those owners of houses and structures covered by the demolition orders issued by petitioner are not entitled to the injunctive relief previously granted by respondent.

³⁰ Supra note 11, at 99-100.

We note that the same issues and arguments are raised in the present petitions for injunction which sought to enjoin the same demolition orders. Magdalena Gumangan, et al. in Case No. 29-CAR-09 anchored their ownership claim over portions of Busol Forest Reservation on Proclamation No. 15 as the portions occupied by the Gumangans and Molintas, their predecessors-in-interest, are indicated in the plans. In Case No. 31-CAR-09, Alexander Ampaguey, Sr., et al. likewise trace their ownership claims to the Heirs of Molintas and Heirs of Gumangan and a title (OCT No. 44) granted to Molintas on September 20, 1919 before the property was declared a reservation in 1922. The latter further argued that by virtue of R.A. No. 8371, the jurisdiction of the DENR over the Busol Forest Reservation was transferred to the NCIP. These matters touching on the issue of whether a clear legal right exists for the issuance of a writ of preliminary injunction in favor of the said claimants have already been settled in G.R. No. 180206. In other words, the same parties or persons representing identical interests have litigated on the same issue and subject matter insofar as the injunctive relief is concerned. Evidently, the principle of *res judicata* applies to this case so that the parties are precluded from raising anew those issues already passed upon by this Court.

We do not subscribe to respondent's contention that petitioner resorted to the wrong remedy in assailing the injunctive orders as it should have moved for reconsideration of the same and then appeal the denial thereof to the CA. Likewise, we do not accept his explanation that his act of issuing the assailed injunctive writs was not contemptuous because the Court in G.R. No. 180206 even affirmed the power of the NCIP to issue temporary restraining orders and writs of injunction without any prohibition against the issuance of said writs when the main action is for injunction.

As mentioned earlier, the Court while recognizing that the NCIP is empowered to issue temporary restraining orders and writs of preliminary injunction, nevertheless ruled that *petitioners in the injunction case seeking to restrain the implementation of the subject demolition order are not entitled to such relief*. Petitioner City Government of Baguio in issuing the demolition advices are simply enforcing the previous demolition orders against the same occupants or claimants or their agents and successors-in-interest, only to be thwarted anew by the injunctive orders and writs issued by respondent. Despite the Court's pronouncement in G.R. No. 180206 that no such clear legal right exists in favor of those occupants or claimants to restrain the enforcement of the demolition orders issued by petitioner, and hence there remains no legal impediment to bar their implementation, respondent still issued the temporary restraining orders and writs of preliminary injunction. Worse, respondent would require petitioner to simply appeal his ruling, a move that will only result in multiple suits and endless litigation.

In the recent case of *The Baguio Regreening Movement, Inc. v. Masweng*³¹ respondent issued similar temporary restraining orders and writs of preliminary injunction in favor of claimants which include Magdalena Gumangan and Alexander Ampaguey, Sr. who sought to enjoin the Baguio District Engineer's Office, the Office of the City Architect and Parks Superintendent, the Baguio Regreening Movement, Inc. and the Busol Task Force from fencing the Busol Watershed Reservation. The CA affirmed respondent's orders and dismissed the petition for certiorari filed by the aforesaid offices. Applying the principle of *stare decisis*, the Court ruled:

On February 4, 2009, this Court promulgated its Decision in G.R. No. 180206, a suit which involved several of the parties in the case at bar. In G.R. No. 180206, the City Mayor of Baguio City issued three Demolition Orders with respect to allegedly illegal structures constructed by private respondents therein on a portion of the Busol Forest Reservation. Private respondents filed a Petition for Injunction with the NCIP. Atty. Masweng issued two temporary restraining orders directing the City Government of Baguio to refrain from enforcing said Demolition Orders and subsequently granted private respondents' application for a preliminary injunction. The Court of Appeals, acting on petitioners' Petition for *Certiorari*, affirmed the temporary restraining orders and the writ of preliminary injunction.

This Court then upheld the jurisdiction of the NCIP on the basis of the allegations in private respondents' Petition for Injunction. It was similarly claimed in said Petition for Injunction that private respondents were descendants of Molintas and Gumangan whose claims over the portions of the Busol Watershed Reservation had been recognized by Proclamation No. 15. This Court thus ruled in G.R. No. 180206 that the nature of the action clearly qualify it as a dispute or controversy over ancestral lands/domains of the ICCs/IPs. On the basis of Section 69(d) of the IPRA and Section 82, Rule XV of NCIP Administrative Circular No. 1-03, 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.

On petitioners' argument that the City of Baguio is exempt from the provisions of the IPRA and, consequently, the jurisdiction of the NCIP, this Court ruled in G.R. No. 180206 that said exemption cannot *ipso facto* be deduced from Section 78 of the IPRA because the law concedes the validity of prior land rights recognized or acquired through any process before its effectivity.

Lastly, however, this Court ruled that although the NCIP has the authority to issue temporary restraining orders and writs of injunction, it was not convinced that private respondents were entitled to the relief granted by the Commission. Proclamation No. 15 does not appear to be a definitive recognition of private respondents' ancestral land claim, as it merely identifies the Molintas and Gumangan families as *claimants* of a portion of the Busol Forest Reservation, but does not acknowledge vested rights over the same. Since it is required before the issuance of a writ of preliminary injunction that claimants show the existence of a right to be protected, this Court, in G.R. No. 180206, ultimately granted the petition

³¹ G.R. No. 180882, February 27, 2013, 692 SCRA 109.

of the City Government of Baguio and set aside the writ of preliminary injunction issued therein.

In the case at bar, petitioners and private respondents present the very same arguments and counter-arguments with respect to the writ of injunction against the fencing of the Busol Watershed Reservation. The same legal issues are thus being litigated in G.R. No. 180206 and in the case at bar, except that different writs of injunction are being assailed. In both cases, petitioners claim (1) that Atty. Masweng is prohibited from issuing temporary restraining orders and writs of preliminary injunction against government infrastructure projects; (2) that Baguio City is beyond the ambit of the IPRA; and (3) **that private respondents have not shown a clear right to be protected.** Private respondents, on the other hand, presented the same allegations in their Petition for Injunction, particularly the alleged recognition made under Proclamation No. 15 in favor of their ancestors. While *res judicata* does not apply on account of the different subject matters of the case at bar and G.R. No. 180206 (they assail different writs of injunction, *albeit* issued by the same hearing officer), **we are constrained by the principle of *stare decisis* to grant the instant petition.** The Court explained the principle of *stare decisis* in *Ting v. Velez-Ting*:

The principle of *stare decisis* enjoins adherence by lower courts to doctrinal rules established by this Court in its final decisions. It is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument. Basically, it is a bar to any attempt to relitigate the same issues, necessary for two simple reasons: economy and stability. In our jurisdiction, the principle is entrenched in Article 8 of the Civil Code. (Citations omitted.)

We have also previously held that “[u]nder the doctrine of *stare decisis*, once a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases where the facts are substantially the same.”³² (Emphasis supplied.)

Respondent’s willful disregard and defiance of this Court’s ruling on a matter submitted for the second time before his office cannot be countenanced. By acting in opposition to this Court’s authority and disregarding its final determination of the legal issue pending before him, respondent failed in his duty not to impede the due administration of justice and consistently adhere to existing laws and principles as interpreted in the decisions of the Court.

Section 7, Rule 71 of the Rules provides the penalty for indirect contempt. Section 7 of Rule 71 reads:

SEC. 7. *Punishment for indirect contempt.* – If the respondent is adjudged guilty of indirect contempt committed against a Regional Trial Court or a court of equivalent or higher rank, he may be punished by a fine

³² Id. at 122-125.


not exceeding thirty thousand pesos or imprisonment not exceeding six (6) months, or both. x x x

For his contumacious conduct and considering the attendant circumstances, the Court deems it proper to impose a fine of ₱10,000.00.

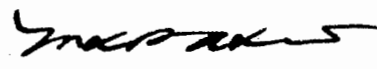
WHEREFORE, the petition for contempt is **GRANTED**. The assailed Temporary Restraining Order dated July 27, 2009, Order dated July 31, 2009 and Writ of Preliminary Injunction in NCIP Case No. 31-CAR-09, and Temporary Restraining Order dated July 27, 2009, Order dated July 31, 2009 and Writ of Preliminary Injunction in NCIP Case No. 29-CAR-09 are hereby all **LIFTED and SET ASIDE**.


The Court finds respondent Atty. BRAIN S. MASWENG, Regional Hearing Officer, National Commission on Indigenous Peoples, Cordillera Administrative Region (NCIP-CAR), **GUILTY** of Indirect Contempt and hereby imposes on him a fine of TEN THOUSAND PESOS (₱10,000.00) payable to this Court's Cashier within ten (10) days from notice, with the additional directive for respondent to furnish the Division Clerk of this Court with a certified copy of the Official Receipt as proof of his compliance.

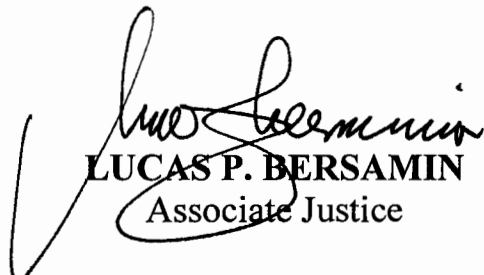
SO ORDERED.


MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

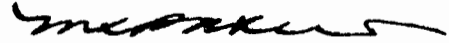

TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

