

## THIRD DIVISION

[ G.R. No. 165003, February 02, 2010 ]

**THE CITY MAYOR OF BAGUIO AND THE HEAD OF THE DEMOLITION TEAM - ENGR. NAZITA BAÑEZ, PETITIONERS, VS. ATTY. BRAIN MASWENG, REGIONAL HEARING OFFICER, NCIP-CAR, THE HEIRS OF JUDITH CARIÑO, JACQUELINE CARIÑO AND THE HEIRS OF MATEO CARIÑO AND BAYOSA ORTEGA, \*\* RESPONDENTS.**

### R E S O L U T I O N

#### **CORONA, J.:**

This is a petition for review on certiorari<sup>[1]</sup> of the March 31, 2004 decision<sup>[2]</sup> and July 23, 2004 resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 80613.

Respondents Judith K. Cariño, Jacqueline Cariño and the other heirs of Mateo Cariño and Bayosa Ortega are members of the Ibaloi tribe, an indigenous cultural tribe of Baguio City and Benguet Province. Their ancestors were grantees of a survey plan approved by the Director of Lands in 1920. Currently, they have pending petitions before the National Commission on Indigenous People (NCIP) for the validation of ancestral land claims covering a parcel of land in Resident Section "J" in Baguio City and Tuba, Benguet. A portion of the land being claimed by petitioners overlaps with the Baguio Dairy Farm, a government reservation under the supervision of the Department of Agriculture (DA).<sup>[4]</sup>

On June 29, 2003, respondents filed a petition for injunction (with prayer for the issuance of a temporary restraining order [TRO] and/or a writ of preliminary injunction) with the NCIP<sup>[5]</sup> seeking to enjoin the mayor of Baguio City and the head of the city's demolition team from implementing Demolition Order No. 17, series of 2003.<sup>[6]</sup> The order, issued by the office of the mayor upon complaint of the DA, directs the demolition of shanties and other structures within the premises of the Baguio Dairy Farm belonging to private respondents which were then undergoing construction or were recently built without the required permits. In response, public respondent Brain Masweng, regional hearing officer of the NCIP in the Cordillera Administrative Region, issued a 72-hour TRO.

In a resolution dated July 21, 2003, respondent Masweng granted the application for a writ of preliminary injunction. Petitioners' motion for reconsideration was denied.

The case was elevated to the Court of Appeals (CA) via a petition for certiorari filed by petitioners. Upholding the NCIP's jurisdiction to hear and decide main actions for injunction, the CA denied both the petition and the subsequent motion for reconsideration.