

Ancestral Domain Rights: Issues, Responses, and Recommendations

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38 *ATENEO L.J.* 87 (1994)

SUBJECT(S): CONSTITUTIONAL LAW

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The Note presents the idea that an exception to the coverage of the Regalian Doctrine is the Constitution's recognition of the rights of tribal Filipinos over their ancestral domains. This recognition by the Constitution of the rights of tribal Filipinos to their ancestral domains therefore results in the interpretation that ancestral lands do not form part of the lands of the public domain. The Note expounds on this interpretation by delving into the tenurial rights of the tribal Filipinos to their ancestral lands. To better present his analysis, the Author divided the Note into four major parts. The first part is the introduction. The second part is the identification of issues. The third part provides an analysis of these issues. The last part is the conclusion and recommendation of the Author.

The Note first presents several issues: 1) whenever the government pursues development projects involving the so-called lands of the public domain, tribal Filipinos are dispossessed of their ancestral lands; 2) Issue involving land ownership; and 3) Classification and disposition of public lands. The Note then proceeds to analyze the development of jurisprudence on these issues. Earlier jurisprudence is filled with contradicting doctrines concerning the effect of the registration of public lands under claim of inquisitive prescription. The conflicting jurisprudence has created a tension between the operation of the Regalian Doctrine and the recognition of vested rights that the Court tries to address in issues involving ancestral lands. The Note also discusses the need for the law to call for a policy of integration of tribal Filipinos into the Philippine mainstream. This integration policy not only recognizes tribal rights but also preserves their way of life. The Author recommends that the three branches of power work together in order to recognize ancestral domain rights. The Author opines that an amendment to the Constitution is required to make ancestral land a new classification of land. In addition, the Congress should also pass a law which will comprehensively govern ancestral domain rights. The Executive department, meanwhile, will act through its agencies such as the Department of Environment and Natural Resources to embark on a systematic campaign to delineate ancestral domain boundaries. Lastly, the Author believes that courts should apply the *Carino* doctrine based on the constitutional provisions upholding the rights of Indigenous Cultural Communities.

