IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

ESTATE OF LUISA NGERIBONGEL PEDRO and
ESTATE OF CONCEPTION P. MERRILL,
Appellants,
v.
ESTATE OF LORENZA PEDRO and JOSEPHA PEDRO,
Appellees.

Cite as: 2024 Palau 11
Civil Appeal No. 23-032
Appeal from Civil Action No. 22-135

Decided: March 26, 2024

Counsel for Appellants	William L. Ridpath
Counsel for Appellee Estate of Lorenza Pedro	Masami Elbelau, Jr.
Counsel for Appellee Josepha Pedro	Raynold B. Oilouch

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice, presiding
FRED M. ISAACS, Associate Justice
KEVIN BENNARDO, Associate Justice

Appeal from the Trial Division, the Honorable Lourdes F. Materne, Associate Justice, presiding.

OPINION

PER CURIAM:

[¶ 1] This appeal involves an attempt by the estates of two sisters to clear title to their interest in land by collaterally attacking a trial court order awarding that land to their other two sisters. In issuing that order, the trial court disregarded a certificate of title listing the four sisters as co-owners of that land, relied on an invalid certificate of title listing the sisters' late mother as the owner, and distributed the land to two of the four sisters. At the heart of the

three issues presented on appeal is whether the trial court exceeded its jurisdiction by awarding property not properly before it.

[¶ 2] For the reasons set forth below, we **REVERSE**.

BACKGROUND

[¶ 3] This appeal stems from a trial court order granting Appellee Josepha Pedro's Motion for Summary Judgment, thereby awarding Josepha and her sister, Lorenza Pedro, title to certain land. As the trial court noted, this case builds upon "a perplexing history of inconsistent litigation going back to the early 1990s." Order Granting Def. Josepha's Mot. for Summ. J., *Estate of Luisa Ngeribongel Pedro v. Estate of Lorenza Pedro*, Civil Action No. 22-135, at 2 (Tr. Div. Sept. 7, 2023) [hereinafter 2023 Order]. Two prior cases and the case now on appeal are most relevant to the issues on appeal.

[¶ 4] The first of these cases, Civil Action 05-135, resulted in a judgment for the four sisters and in a certificate of title. Petronina Ues Ungiil Pedro ("Maungil") owned Cadastral Lot No. 44 B 11 in Ikelau Hamlet, Koror ("Property"). Her ownership was evidenced by Certificate of Title No. 12-20-91, which the Land Claims Hearing Office issued in 1993. After Maungil passed away in 2005, Lorenza Pedro initiated Civil Action No. 05-135, requesting a judgment naming Maungil's four daughters as owners of the Property. *In the matter of the Determination of Heir or Heirs of the Late Petronia Ues Ungiil Pedro*, Civil Action No. 05-135, at 1 (Tr. Div. Nov. 17, 2008) [hereinafter 2008 Judgment]. The trial court granted Lorenza's request and directed the Land Court to cancel Certificate of Title No. 12-20-91 ("Invalid CT") and issue a new certificate of title to Lorenza and her three sisters. *Id.* at 2. The Land Court complied, issuing Certificate of Title No. 884-04 in 2008 ("Valid CT"), which named as co-owners Lorenza Pedro, Conception P. Merill, Josepha Pedro, and the Estate of Luisa Ngeribongel Pedro.

[¶ 5] The next case, Civil Action 12-057, resulted in a judgment for two of the four sisters but did not result in a new certificate of title. In 2012, Lorenza initiated Civil Action 12-057 to open Maungil's Estate and appoint an administrator. At that time, Luisa Pedro and Conception Merrill had passed away but neither estate was opened. 2023 Order, at 2. Lorenza filed a "Report

and Recommendation on Estate of Maungil Wes. P. Pedro" incorrectly stating that the Property was still owned by decedent Maungil and, as such, included in Maungil's Estate. *Id.* Lorenza also attached the Invalid CT and failed to mention the Valid CT. *Id.* The Parties and the trial court collectively explain that in CA 12-057, Lorenza misrepresented Maungil's Estate, either mistakenly or fraudulently, which resulted in the trial court granting Lorenza's request. However, the trial court received a copy of the Valid CT and disregarded it.

[¶ 6] The filings for CA 12-057 include a letter from Conception's daughter, Jerena P. Camacho, to the trial court. In this letter, Jerena stated in relevant part:

> My Mother owns a one-fourth (1/4th) undivided interest in the land identified in this matter and located at Ikelau, Koror States, as Cadastral Plat No. 044 B 11 (T.D. Lot No. 945), containing an area of 911 square meters, more or less, having gotten the same from her Mother, the late Maungil Wes P. Pedro, Dec. I have attached a copy of a Certificate of Title issued by the Land Court evidencing my mother's undivided interest in said land.
>
> Lorenza Pedro, herself an Owner also of an undivided one-fourth (1/4th) interest in said Land, has no right to seek your permission to administer my mother's interest in the Land given that my late Grandmother Maungil Wes P. Pedro no longer has any interest in said Land to begin with.

This letter included the Valid CT as an attachment. The trial court did not mention the letter or the Valid CT in its judgments or orders.[1] Instead, the court awarded the Property to Lorenza and Josepha Pedro without directing the Land

[1] "As a result of those assertions, the court relied on the [Invalid CT] and issued a Judgment and Order that distributed the Property to Lorenza and Josepha Pedro." 2023 Order, at 2. Appellants and Appellees likewise failed to discuss the letter and its implications in their appellate briefs.

Court to cancel the Valid CT. The Land Court did not issue a new certificate of title based on that judgment, and it did not cancel the Valid CT.

[¶ 7] In the case now on appeal, Civil Action 22-135, Theresa Bereto initiated an estate case, claiming her late mother Lorenza Pedro's interest in the Property. *Id.* One of the sisters' survivors requested that Lorenza's Estate clarify its purported interest in the Property. *Id.* at 3. Theresa, on behalf of the Estate, claimed a half-ownership interest and refused to recognize the Valid CT or concede that the 2012 Judgment from Civil Action 12-057 was void. *Id.* The Estate of Luisa Ngeribongel Pedro and the Estate of Conception P. Merrill, now Appellants, filed Civil Action 22-135 against the Estate of Lorenza Pedro and Josepha Pedro to collaterally attack the 2012 Judgment in Civil Action No. 12-057, aiming to clear any cloud in their interest over the Property. *Id.* Appellants asked the trial court to declare the 2012 Judgment "void to the extent that it addressed the ownership of the Property because the Property could not have reasonably been included as an asset of Maungil's Estate." *Id.* The court dispensed of the trial dates and allowed Appellee Josepha's Motion for Summary Judgment to proceed.

[¶ 8] The trial court granted Josepha's Motion, ruling in favor of Appellees Josepha and Lorenza for three reasons. First, the trial court concluded Appellants should have appealed Civil Action 12-057 because the issue of whether the 2012 Judgment or the Valid CT should prevail was not properly before the trial court. Second, the court concluded no notice that the Property was an inventoried asset of Maungil's Estate was required to be served upon Maungil's deceased children or Maungil's grandchildren. Third and finally, the court determined Appellants' request was barred by a catch-all six-year statute of limitations because a more precise twenty-year statute of limitations does not apply to their case. Appellants appeal the court's legal conclusions and seek to clarify some arguments they believe the trial court misunderstood.

STANDARD OF REVIEW

[¶ 9] The trial court must grant a motion for summary judgment when "the movant shows that there is no genuine dispute as to any material fact and the

movant is entitled to judgment as a matter of law."[2] When considering a motion for summary judgment, the court "must view all evidence and inferences in the light most favorable to the nonmoving party." *ROP v. Reklai*, 11 ROP 18, 21 (2003).

[¶ 10] We review the trial court's conclusions of law de novo. *Ngiraterang v. Ngarchelong State Assembly*, 2021 Palau 18 ¶ 7. We also review de novo appeals from summary judgment, "employing the same standards that govern the trial court," considering "whether the substantive law was correctly applied," and giving no deference to the trial court. *Id.*; *ROP v. Salii*, 2017 Palau 20 ¶ 2; *House of Traditional Leaders v. Koror State Gov't*, 17 ROP 101, 105 (2010).

[¶ 11] Furthermore, we retain "the power to order summary judgment for appellant, both where he made no motion and also where he made a cross-motion in the trial court." *Becheserrak v. ROP*, 5 ROP Intrm. 63, 67 (1995). Exercising this power is particularly appropriate when the issues presented are purely legal. *See e.g.*, *id.* (granting summary judgment on appeal where the issue presented was purely one of statutory interpretation). As such, we may reverse the trial court's decision and grant summary judgment for the appellant. *See Senate v. Nakamura*, 8 ROP Intrm. 190, 194 (2000) (reversing the trial court's grant of the appellees' motion for summary judgment); *Becheserrak*, 5 ROP Intrm. at 67 (granting summary judgment for the appellant).

DISCUSSION

[¶ 12] Appellants present three issues on appeal to support their request for reversal. The first issue is whether the Valid CT has preclusive effect over the 2012 Judgment. The second issue is whether the trial court erred in applying the six-year statute of limitations under section 405 of title 14 to Appellants'

[2] ROP R. Civ. P. 56(a). The Palau Rules of Civil Procedure were updated and revised with an effective date of September 11, 2023. These updated Rules "are immediately applicable to all pending cases except to the extent that they adversely affect the substantive rights of any party." ROP R. Civ. P. Order to 2023 Amendment. As such, we rely on the updated Rules in this Opinion.

claim instead of the twenty-year limitation set forth in section 402.[3] The third and final issue is whether the trial court erred in disallowing Appellants' collateral attack of the 2012 Judgment. We consider these issues in turn.

I. Preclusive Effect

[¶ 13] The first issue is whether the Valid CT should have preclusive effect over the 2012 Judgment. A "certificate of title shall be conclusive upon all persons" and is "prima facie evidence of ownership" when specified restrictions are satisfied. 35 PNC § 1314(B). As such, "[a] certificate of title serves as the point of finality in land ownership determinations." *Tebelak v. Rdialul*, 13 ROP 150, 154 (2006). The trial court determined that the issue of whether the 2012 Judgment or the Valid CT should prevail was not properly before the court because "these arguments would have been better suited for an appeal." 2023 Order at 5.

[¶ 14] On appeal, Appellants argue that Lorenza should not be permitted to undo the Valid CT by way of the 2012 Judgment.[4] To support this argument, Appellants point to *Emaudiong v. Arbedul*, 5 ROP Intrm. 31 (1994), noting that newly issued certificates of title are binding upon those who have the benefit of due process. Appellees counter by arguing the 2012 Judgment should prevail over the 2008 Judgment under the "Last in Time Rule."[5]

[¶ 15] The Valid CT is binding on Appellees because they were involved in the process of obtaining it. The Last in Time Rule, moreover, does not apply here because there are not merely two inconsistent judgments, but rather a valid certificate of title and an inconsistent judgment. Perhaps, as the trial court

[3] Issues relating to the applicable statute of limitations typically precede other arguments. Here, however, determining the effect of the 2012 Judgment on Appellants' claim is crucial to discerning which limitation to apply. Hence, we consider these issues accordingly.

[4] Appellants first request that the Valid CT be afforded equal weight as the Invalid CT. This step is unnecessary because the trial court in its 2008 Judgment already directed the Land Court to "cancel" the original certificate of title and issue a new certificate, thereby invalidating the original certificate. Thus, there is only one valid certificate of title for the Property.

[5] Appellee Josepha further seeks to undermine the process leading to the Valid CT by noting that in *Emaudiong*, the certificate of title resulted from a land registration process and not from a court order. We agree with Appellants' assertion that certificates of title resulting from trial court decisions rather than land claim matters should not "bear a second-class status." Appellants' Reply Br., at 3.

concluded, this argument would have been appropriate at the appellate level. Nevertheless, the trial court exceeded its jurisdiction when it distributed the Property.

[¶ 16] When the 2012 case arose, the four sisters, and not Maungil, owned the Property. This means the Property was not part of Maungil's Estate. As previously discussed, Conception's daughter informed the court of this fact and submitted the Valid CT as proof. Despite this information, the court awarded the property to Lorenza and Josepha. The court exceeded its jurisdiction by distributing the Property without acknowledging the Valid CT included in its filings because the Property was not part of Maungil's Estate.[6] Thus, regardless of Appellants' failure to intervene or appeal, Appellants retained ownership of the Property.

II. Statute of Limitations

[¶ 17] The second issue is whether the trial court erred in applying the six-year statute of limitations under title 14, section 405 of the Palau National Code to Appellants' claims instead of the twenty-year limitation set forth in section 402. Pursuant to section 402, "actions upon a judgment" and "actions for the recovery of land or any interest therein" must "be commenced only within twenty (20) years after the cause of action accrues." Under section 405, any "actions other than those covered in the preceding sections of this chapter shall be commenced within six (6) years after the cause of action accrues." In *Isimang*, we interpreted these sections, providing this oft-cited paragraph as guidance for discerning which actions are for the recovery of land:

> Where the allegations of a particular claim amount to an assertion that the plaintiff never parted with the title to her land and is entitled to immediate possession of it, we believe that such a claim is one for the recovery of land and is governed by the 20-year statute of limitations. In

[6] *See Estate of Sukrad v. Arbedul*, 2023 Palau 23 ¶ 13 ("The trial court exceeded its jurisdiction by correcting the boundaries set by the Certificates of Title."). Furthermore, during oral argument, counsel for Appellee Josepha Pedro argued that the trial court had jurisdiction over Maungil's Estate but conceded that the Property was not part of that Estate.

> bringing such a claim, a plaintiff is entitled, without more, to say "Get off my land." By contrast, where the essence of a claim is that the owner did part with title to his land, albeit through allegedly wrongful means, she is not–or not yet–in a position to say "Get off my land" because it will not be her land until some deed or other transaction is undone. Such claims are not for the recovery of land and are governed instead by the six-year statute of limitations.

Isimang v. Arbedul, 11 ROP 66, 72 (2004).

[¶ 18] The trial court, incorrectly applying this precedent, determined Appellants' request was barred by the catch-all six-year statute of limitations because the more precise twenty-year statute of limitations does not apply to their case. The court reasoned that Appellants "ask that 'some deed or other transaction [be] undone' before they can possess the Property without any cloud in their title."[7] Appellants argue the trial court misapprehended the nature of their claim and applied the incorrect statute of limitations. Appellees contend the six-year limitation applies to Appellants' request because the 2012 Judgment arose from Lorenza's fraud or mistake and Appellants' claims are rooted in an allegation of fraud.

[¶ 19] The twenty-year limitation applies here because Appellants never parted with their title and have been entitled to immediate possession of the Property since obtaining the Valid CT. The 2012 Judgment merely constitutes a cloud on their title. If the cause of action accrued when Lorenza claimed the Property was part of Maungil's Estate and attached the Invalid CT,[8] that would

[7] We do not consider whether the 2012 Judgment constitutes a "deed or other transaction," whether Appellants' claims qualify for the twenty-year limitation as "an action upon a judgment" under section 402, or whether this case qualifies for relief from a judgment under ROP R. Civ. P. 60 because the Parties did not argue these issues on appeal.

[8] *See Fanna v. Sonsorol State Gov't*, 8 ROP Intrm. 9, 10 (1999) ("A cause of action accrues as soon as the party in whose favor it arises is entitled to maintain an action."); *see also*, *Isimang*, 11 ROP at 74 ("We look to the elements of each cause of action to determine when the action accrued.").

be August 24, 2012. Under the twenty-year limitation, Appellants have until August of 2032 to bring suit.

III. Collateral Attack

[¶ 20] The third and final issue is whether the trial court erred in disallowing Appellants' collateral attack of the 2012 Judgment. Collateral attacks of certificates of title are permitted in limited circumstances. *Elidchedong v. Maui*, 2023 Palau 2 ¶¶ 12-13. Furthermore, a party who chooses not to appeal a determination of ownership may collaterally attack an order or judgment by showing, "by clear and convincing evidence, that the Land Court proceedings that led to the issuance of a certificate of title violated her or his right to due process." *Id.* ¶ 14.

[¶ 21] When Lorenza mistakenly or fraudulently reopened Maungil's Estate, the trial court ordered that notice be given to Maungil's "surviving children, siblings, aunts, and uncles." Appellants argue that this failure of notice is a procedural deficiency meriting a collateral attack. Appellees counter that notice could not be served and that Appellants nevertheless had constructive notice because notice was duly made to the public.

[¶ 22] Deciding this issue is unnecessary for at least two reasons. First, as previously mentioned, the resulting 2012 Judgment did not cancel the Valid CT or result in a new certificate of title. Consequently, the cited laws for collaterally attacking an order or judgment resulting in a certificate of title do not apply to this case. Second, a collateral attack is not necessary because Appellants have shown that the trial court exceeded its jurisdiction by redistributing property not properly before it and the twenty-year limitation applies to this action.

[¶ 23] We hold that Appellants have shown the trial court exceeded its jurisdiction by redistributing property not properly before it and that the twenty-year limitation applies to this action. Given the issues before us are purely legal and no additional factfinding is necessary,[9] reversing the trial court's grant of summary judgment on appeal is appropriate. Accordingly, we reverse the court's grant of summary judgment for Appellee Josepha Pedro,

[9] As counsel for each of the Parties conceded at oral argument.

and we grant summary judgment for Appellants the Estate of Luisa Ngeribongel Pedro and the Estate of Conception P. Merrill.

CONCLUSION

[¶ 24] For the foregoing reasons, we **REVERSE** the Trial Division's decision.