

**IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION**

**YUSIM MEKUL, SANAE TANGELBAD MEKUL, ARVIN
RAYMOND, ISABELLA RIDE, HECTOR TATINGAL,
AYLES RAYMOND SUKRAD, BENHART THOMAS and
SANDY MENGLOI,¹**

Appellants,

v.

**STACEY KAIICHI, ELCHESEL K. KAZUO, OLBIL ERA
NGEAUR and ARKAGIUS YAMADA, in his official capacity
as President of Olbil Era Ngeaur,**

Appellees.

Cite as: 2025 Palau 10
Civil Appeal No. 24-020
Appeal from Civil Action No. 24-030

Decided: July 14, 2025

Counsel for Appellants	Salvador Remoket
Counsel for Appellee Stacey Kaiichi	Mariano Carlos
Counsel for Appellee Olbil Era Ngeaur	Raynold B. Oilouch

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice, presiding
FRED M. ISAACS, Associate Justice
DANIEL R. FOLEY, Associate Justice

Appeal from the Trial Division, the Honorable Honora E. Remengesau Rudimch, Associate Justice, presiding.

¹ We previously altered the caption in this case to remove Soweï Clan from the list of Appellants, as well as to remove the remaining Appellants' respective Clan titles, because who belongs to and holds the various titles of Soweï Clan—and is therefore authorized to bring suit on behalf of the Clan—is central to the dispute in this case.

OPINION

PER CURIAM:

[¶ 1] This appeal concerns the constitutionality of a state legislature’s exercise of its sole-judge authority to determine the qualifications of its members, as well as the process due in determining whether to exercise jurisdiction over declaratory judgment actions involving Clan matters. Appellants, claiming to be the senior strong members of Soweï Clan in Angaur, appeal the Trial Division’s determinations that the issue of legislative seating pursuant to a sole-judge provision is a non-justiciable political question and that, upon resolving the former, the trial court may decline to exercise jurisdiction over an underlying clan title dispute.

[¶ 2] For the reasons set forth below, we **VACATE AND REMAND**.

BACKGROUND

[¶ 3] Soweï Clan is the first ranking clan of Ngebeyanged Hamlet of Angaur State. The highest traditional male chief title of Soweï Clan is *Renguul ra Soweï*. *Renguul ra Soweï* is a member of the Ngarakesuk Council of Chiefs of Ngebeyanged Hamlet and of the Olbiil era Ngeaur (“OEN”), Angaur’s legislative body.

[¶ 4] Article VIII, section 2 of Angaur’s Constitution provides that “[t]he Olbiil Era Ngeaur shall consist of the four (4) high chiefs of the State of Angaur according to their respective traditional ranks and five (5) other members who shall be elected at-large by the eligible and legally registered voters of the State of Angaur.”

[¶ 5] Appellants claim to be the male and female senior strong members of Soweï Clan. They allege that, through traditional methods, they appointed Yusim Mekui as *Renguul ra Soweï* in 2004, at which time they contend Mr. Mekui was entitled to sit in the OEN as one of Angaur’s four high chiefs. However, in 2005, the 12th OEN vacated the seat reserved for *Renguul ra Soweï* due to an ongoing dispute over the *Renguul* title. The seat remained vacant until the 20th OEN seated Appellee Stacey Kaiichi as *Renguul*. The 21st OEN resealed Mr. Kaiichi, as did the present-day 22nd OEN. The Appellants claim

that Mr. Kaiichi was neither traditionally appointed as *Renguul* nor is he a member of Soweï Clan, and thus has no right to the seat.

[¶ 6] On April 22, 2024, the Appellants filed a Verified Complaint in the Trial Division alleging that Mr. Kaiichi’s seating in the OEN as *Renguul ra Soweï* was unconstitutional. They sought Mr. Kaiichi’s removal from the OEN, as well as a declaration regarding the parties’ relative membership and strength within Soweï Clan. The OEN moved to dismiss the claims regarding Mr. Kaiichi’s seating, contending in part that the “sole judge” clause of the Angaur State Constitution reserves the right of a new OEN to be “the sole judge of the election and qualifications of its members.” Angaur Const. art. VIII, § 6.

[¶ 7] On August 15, 2024, the trial court granted in part the OEN’s motion to dismiss on the grounds that the issue of Mr. Kaiichi’s seating is a non-justiciable political question. By separate order issued the same day, the trial court declined to exercise jurisdiction over the remaining claims concerning the parties’ membership and strength in Soweï Clan because such claims were no longer tethered to the issue of Mr. Kaiichi’s seating. The court further suggested that the Clan title dispute was best resolved internally. It subsequently dismissed Mr. Kaiichi’s counterclaim as moot, resolving all pending matters below. The Appellants timely appealed.

STANDARD OF REVIEW

[¶ 8] We review matters of law de novo, findings of fact for clear error, and exercises of discretion for abuse of that discretion. *Obechou Lineage v. Ngeruangel Lineage of Mochouang Clan*. 2024 Palau 2 ¶ 5. “We may affirm or reverse a decision of the Trial Division for any reason apparent in the record.” *Rengiil v. Ongos*, 22 ROP 48, 50 (2015) (internal citation omitted).

DISCUSSION

[¶ 9] As an initial matter, the OEN contends the issue of Stacey Kaiichi’s seating as *Renguul ra Soweï* is moot because the Appellants directed their Complaint toward the 21st OEN, which concluded its term during the pendency of this appeal. The Appellants maintain that the issue is ongoing because Mr. Kaiichi occupies *Renguul*’s seat in the present-day 22nd OEN.

[¶ 10] “[A] case is moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” *Salii v. House of Delegates*, 1 ROP Intrm. 708, 711 (1989) (internal quotation and citation omitted). “If events subsequent to the filing of an appeal moot the issues presented in a case, no justiciable controversy is presented.” *Mesubed v. Ninth Kelulul a Kiuluul*, 10 ROP 104, 105 (2003) (internal citation omitted).

[¶ 11] We find the OEN’s argument unavailing. Although the 21st OEN no longer exists as a body, the issue of Mr. Kaiichi’s seating remains ongoing and likely to reoccur. Mr. Kaiichi currently occupies the seat reserved for *Renguul ra Sowe*i. The dispute over who properly bears the traditional chief title of Sowe*i* Clan will continue to spur-up any time the OEN seats an individual in contravention of the Clan’s purported traditional appointment process. *Cf. Ngirameketii v. Ngirarsaol*, 2021 Palau 1 (legal issue surrounding impeachment moot where former Governor of Ngiwal State no longer in office, rendering likelihood of reoccurrence too speculative). Moreover, the related issue of the constitutional requirements for sitting in the OEN as a traditionally-ranked high chief begs for judicial resolution.

[¶ 12] Turning to the merits, this case presents us with two issues on appeal. First, whether the trial court erred in concluding that the OEN’s seating of Mr. Kaiichi as *Renguul ra Sowe*i pursuant to the sole-judge provision of the Angaur State Constitution is a non-justiciable political question. Second, whether the trial court erred in dismissing the Appellants’ remaining declaratory judgment claims in their entirety without first providing the parties notice and an opportunity to be heard.

I. Justiciability of the Claims Regarding Mr. Kaiichi’s Seating

[¶ 13] The Appellants argue that Mr. Kaiichi was unconstitutionally seated in the OEN as *Renguul ra Sowe*i. The trial court dismissed this claim on the grounds that it presented a non-justiciable political question because the OEN was exercising its sole-judge authority as provided by the Angaur State Constitution.

[¶ 14] A controversy involves a nonjusticiable political question where there is “a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and

manageable standards for resolving it.” *Baker v. Carr*, 369 U.S. 186, 217 (1962); *see also Obeketang v. Sato*, 13 ROP 192, 195 (2006); *Francisco v. Chin*, 10 ROP 44, 49 (2003). The adjudication of the qualifications of OEN members is an issue that has been constitutionally committed to the Angaur State Legislature. *See* Angaur Const. art. VIII, § 6 (“A new Olbiil era Ngeaur, when convening during its first regular session, shall be the sole judge of the election and qualifications of its members.” (cleaned up)).

[¶ 15] However, while the legislature maintains discretion to determine which candidates satisfy the requisite qualifications for membership, issues of constitutional interpretation are left to the Court. *See Singeo v. Rekemel*, 2023 Palau 8 ¶ 16; *Francisco*, 10 ROP 44, 52. This includes determinations as to whether the application of a sole-judge clause conflicts with the Constitution or traditional law. *See Obeketang v. Sato*, 13 ROP 192, 198–99 (2006) (court intervention would be appropriate if a sole-judge clause were applied in an unconstitutional fashion); *Rengiil v. Ongos*, 22 ROP 48, 53 (finding of non-justiciability premature absent analysis of traditional law and factual basis for evaluating whether application of state constitutional provisions followed traditional law). Accordingly, “[d]etermining whether a question is nonjusticiably political ‘requires analysis of the precise facts and posture of the particular case, and precludes resolution by any semantic cataloguing.’” *Rengiil*, 22 ROP at 52 (citing *Nixon v. United States*, 506 U.S. 224, 252 (1993) (Souter, J., concurring) (internal quotation and citation omitted)).

[¶ 16] The OEN’s seating process is not required to comport with traditional law. *See* Angaur Const. art. VIII, § 6. However, the Membership Clause of the Angaur State Constitution invokes traditional law by requiring that the OEN reserve legislative seats for “the four (4) high chiefs of the State of Angaur *according to their respective traditional ranks*.” Angaur Const. art. VIII, § 2 (emphasis added). Here, the basis of the Appellants’ claim is that (1) according to traditional law, Mr. Mekui is *Renguul ra Sowe*i, (2) Mr. Kaiichi is neither a member of Sowe*i* Clan, nor has he been traditionally appointed as *Renguul*, and (3) the OEN, which claims to be the Sole Judge of the qualifications of its members, is unlawfully refusing to seat Mr. Mekui and pay him his honorarium. By not developing the relevant traditional law on the record to determine whether or not Mr. Mekui is *Renguul*, or at least interpreting the phrases “high chiefs” and “respective traditional ranks” for the

OEN's application,² the trial court committed plain error. *See* ROP R. App. P. 26(a)(6).

[¶ 17] Inasmuch as the record below lacks findings of traditional law, a factual basis for evaluating whether that traditional law is being followed, and any interpretation of the relevant eligibility requirements for membership in the OEN, we find the trial court's holding of nonjusticiability was premature.

II. Declaratory Relief Related to Clan Matters

[¶ 18] The Appellants further contend the trial court erred in declining to exercise jurisdiction over their request for a declaratory judgment concerning the parties' respective Clan membership and titles. Specifically, they maintain the trial court denied them due process by dismissing the remainder of their complaint without providing the parties notice and an opportunity to be heard.

[¶ 19] "A decision by a trial court [whether] to intervene in a customary matter and issue a declaratory judgment that a person holds a position of traditional leadership is a matter committed to the sound discretion of the trial court and cannot be reversed absent an abuse of that discretion." *Filibert v. Ngirmang*, 8 ROP Intrm. 273, 276 (2001).

[¶ 20] As an initial matter, we generally agree with the trial court that, in an ideal world, clan matters would be best left for clan resolution. But we have placed custom and traditional law on equal footing with other sources of law. *Beouch v. Sasao*, 20 ROP 41 (2013) ("Palauan traditional or customary law

² Compare *Louis v. Nakamura*, 16 ROP 144 (2009), wherein we determined that the issue of Nakamura's seating in the Peleliu State Legislature as Obaklechol was unreviewable because the Appellants claimed only that the Legislature made incorrect factual and customary findings, not that there was an issue of constitutional interpretation requiring the Court's intervention. Notably, in that case, prior to seating Nakamura the Peleliu State Legislature created a credential committee to investigate the underlying title dispute over Obaklechol. *Id.* at 146. Only after the credential committee analyzed the legal, factual, and customary backgrounds of the dispute did the Peleliu State Legislature accept the committee's recommendation that Nakamura be seated. *Id.* While the Appellees would have us assume that the OEN followed similar procedures in resolving the dispute over *Renguul*, the record at this early stage is devoid of any such efforts which might aid the court's analysis.

stands as ‘equally authoritative’ to statutes.” (citing Palau Const. art. V, § 2)); *Rengiil v. Ongos*, 22 ROP 48, 51 n.4 (2015) (same). Accordingly, we have held that “parties seeking declaratory judgments based on customary law should enjoy the same access to courts as those seeking declaratory judgments based on other sources of law.” *Kiuluul v. Elilai Clan*, 2017 Palau 14 ¶ 13; *Ngarbechesis Klobak v. Ueki*, 2018 Palau 17 ¶ 23. While this does not eliminate the trial court’s discretion to hear declaratory judgment actions, it does require the court to apply the requisite jurisdictional analysis.³ We find that the trial court abused its discretion by failing to do so here.

[¶ 21] The rule governing declaratory judgment actions provides that in cases of actual controversy within its jurisdiction, “the court ... may declare the rights and other legal relations of any interested party seeking such declaration.” ROP R. Civ. P. 57. Despite the use of the phrase “actual controversy,” we have instructed the trial court to apply the broader jurisdictional standard defined in *Koror State Legislature v. KSPLA*, 2017 Palau 28, rather than the case or controversy requirement found in Article III of the U.S. Constitution. *See Ueki*, 2018 Palau 17 ¶ 22 (rejecting the application of Article III to declaratory judgment actions in Palau). In *Koror State Legislature*, we emphasized that “[a] proper standing inquiry asks whether the person whose standing is challenged is a proper party to request an adjudication of a particular issue.” 2017 Palau 28 ¶ 30. The goal of such inquiry is to consider “whether the plaintiff has an interest in the adjudication so as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends and to ensure the court will not be asked to decide ill-defined legal and equitable questions.” *Id.* (internal quotations omitted).

³ We acknowledge that due process requires that parties be given notice and an opportunity to be heard before the court may, *sua sponte*, dismiss a case or amend its judgment. *See Airai State Pub. Lands Auth. v. Aimeliik State Gov’t*, 11 ROP 39, 42 (2003) (collecting cases). However, our Rules of Civil Procedure do not explicitly require the trial court to hear declaratory judgment actions. *See* ROP R. Civ. P. 57. Nevertheless, it may be prudent for the trial court to provide the parties with notice and an opportunity to be heard on the issue of jurisdiction where the record requires further factual development in order to complete the requisite legal analysis.

[¶ 22] Here, the trial court failed to apply the appropriate jurisdictional standard. Rather than engage with the analysis provided by *Koror State Legislature*, the trial court found that its dismissal of the claims regarding Kaiichi’s seating rendered the underlying Clan title dispute “untethered from a ‘discrete, real-world dispute over the exercise of legal authority.’”⁴ With “only ... a cause for declaratory judgment” left, the trial court opined that “expending judicial resources, and the time and money of both parties, to decide on this speculative matter that is untethered from any ongoing dispute is reason enough” to decline jurisdiction.

[¶ 23] As a general matter, we agree that courts should weigh the interests of judicial economy and the expenditure of the parties’ time and resources when deciding whether to exercise jurisdiction over matters which are speculative at best. We also agree that the selection of a clan title bearer is, in the first instance, the clan’s responsibility, not the court’s. However, as we have instructed, the court’s primary consideration in declaratory judgment actions should be whether a particular case presents sufficiently concrete adverseness and well-defined legal issues. That the issue of Mr. Kaiichi’s seating might no longer have been before the court does not eliminate the question of who is the rightful bearer of the title *Renguul ra Soweï*. Indeed, this question appears to present precisely the type of scenario appropriate for declaratory relief. What little evidence exists in the record at this stage suggests that the question has been the subject of a decades-long dispute which the parties have been unable to resolve internally, and that a declaration of the parties’ membership and rights within the Clan may resolve the related legislative seating issue. *See Senate v. Nakamura*, 8 ROP Intrm. 190, 193 (2000) (“Declaratory relief is appropriate where it will serve a useful purpose in clarifying the legal relations of the parties or terminate the uncertainty and controversy giving rise to the

⁴ To this point, we note that the trial court relied on statements made in dicta appearing in the footnotes of two of our prior opinions, *Demei v. Sugivama*, 2021 Palau 2 ¶ 12 n.6, and *Lakobong v. Blesam*, 2020 Palau 28 ¶ 7 n.3. While it may be cited as persuasive authority, as a general matter, dicta “are not binding on a subsequent court, whether as a matter of stare decisis or as a matter of law of the case,” because they are not “integral elements of the analysis underlying the decision.” *Carlos v. Eusebio*, 2019 Palau 11 ¶ 10 (quoting *Wilder v. Apfel*, 153 F.3d 799, 803 (7th Cir. 1998)).

proceeding.”); *Kiuluul*, 2017 Palau 14 ¶ 13 (“[D]eclaratory judgment actions may be ideal for resolving customary title disputes, since they allow the court to focus solely on the nuances of customary law without the distraction of collateral issues such as land ownership or damages.”). Accordingly, pursuant to binding precedent and given our prior ruling in *Koror State Legislature*, the trial court’s reliance on the concept of tethering requests for declaratory relief to other “discrete, real-world disputes” is misplaced.⁵

[¶ 24] We thus find that the trial court abused its discretion by failing to apply the requisite jurisdictional standard governing declaratory judgment actions. Accordingly, we remand the Appellants’ claims for declaratory relief to the Trial Division with instructions to apply the jurisdictional standard defined in *Koror State Legislature*.

CONCLUSION

[¶ 25] For the foregoing reasons, we **VACATE AND REMAND** the Trial Division’s August 15, 2024 Order Granting in Part Defendant OEN’s Motion to Dismiss and the August 15, 2024 Order Dismissing Complaint. On remand, the Trial Division is instructed to conduct the relevant jurisdictional analysis as to the Appellants’ claims for declaratory relief and, if appropriate, resolve the underlying Clan title dispute before addressing the claims related to Mr. Kaiichi’s seating in the OEN.

SO ORDERED, this 14th day of July 2025.

⁵ To this end, we find it important to note that clan titles may be treated as a type of intangible property subject to “discrete, real-world disputes.” The various rights and powers afforded by different clan titles make them inherently valuable to those who bear them.