Palau Pub. Lands Auth. v. Etpison, 12 ROP 87 (2005)

PALAU PUBLIC LANDS AUTHORITY,
Appellant,

v.

SHALLUM ETPISON, SURANGEL WHIPPS, TECHITONG REBLUUD, VICTORIA NGIRAREMIANG, TOMOICHI NGIRNGETRANG, NGIRAMELENGEL DEMEI, and YOSHIWO EMESIOCHEL,
Appellees.

CIVIL APPEAL NO. 04-009
Civil Action No. 99-268

Supreme Court, Appellate Division
Republic of Palau

Argued: January 17, 2005
Decided: March 10, 2005

Counsel for Appellant: Christopher Hale

Counsel for Shallum Etpison: William L. Ridpath

Counsel for Surangel Whipps: John K. Rechucher

Counsel for Techitong Rebluud, et al.: J. Roman Bedor

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice; ALEX R. MUNSON, Part-Time Associate Justice.

Appeal from the Supreme Court, Trial Division, the Honorable KATHLEEN M. SALII, Associate Justice, presiding.

PER CURIAM:

Palau Public Lands Authority ("PPLA") appeals the Trial Division judgment rejecting its claim of ownership of certain disputed parcels in Ngatpang State. PPLA claims on appeal that the trial court erred in finding that PPLA did not protect the interest it had in these parcels.[1] Specifically, PPLA claims the trial court erred because the Land Registration Team and Land Commission, which had awarded the land to the appellees in the early 1980s, had no jurisdiction to issue determinations of ownership and certificates of title over said lands as the properties

[1]Prior to oral argument, this Court carried with the case PPLA's motion to represent the interests of Ngatpang State Public Lands Authority, which chose not to appeal. PPLA abandoned this request at oral argument.

were homestead properties. We find that PPLA has no interest in the lands at issue, and therefore cannot raise these claims.

The disputed parcels were registered as public lands in the Tochi Daicho as Lot No. 275 and remained that way until the 1960s. During the 1960s the Trust Territory government issued Homestead Entry Permits ⊥88 to the appellees (or their predecessors in interest) (hereinafter, "homesteaders").[2] The Homestead Entry Permits allowed homesteaders to use the land for five years, subject to certain conditions and requirements.[3] After three years, the Trust Territory government was obligated to inspect the homestead properties and grant a certification of compliance to homesteaders that had complied with conditions and requirements of the homestead program. Within two years of certification, the High Commissioner was required to issue a deed to the complying homesteaders. However, in the case of the homestead lands here, the lands were never inspected by the Trust Territory government, certifications of compliance were never granted, and deeds were never issued.

In 1980, about twelve years after the five-year permit period ended, the homesteaders filed claims for lands including, but greater, than the parcels granted to them in the homestead permits. At that time, the lands were under the control of the PPLA, pursuant to a quitclaim deed from the Trust Territory.

The Ngatpang Land Registration Team then held a hearing on these claims to determine ownership of the lands, pursuant to 67 TTC § 101 *et seq*. PPLA did not appear at these hearings. After the hearings, but prior to any determination by the Ngatpang Land Registration Team, PPLA quitclaimed public lands in Ngatpang to Ngatpang State Public Lands Authority ("NSPLA"). A few days later, the chair of the NSPLA sent a letter to the Ngatpang Land Registration Team, specifying that NSPLA had no objections to awarding the homesteaders the lands they requested, despite the larger size of the claims. In accordance with that letter, the Land Registration team awarded the lands to the homesteaders.

The following year the Land Commission approved the Land Registration Team's adjudication and issued Determinations of Ownership in the name of the homesteaders. Certificates of Title were issued ten years later. In September 1999, NSPLA and Ngatpang State filed the present quiet title action in the Trial Division of the Supreme Court. PPLA intervened in the action to argue that the Land Registration Team and Land Commission exceeded their authority in awarding the lands and issuing Determinations of Ownership to the homesteaders.

The trial court issued judgment in favor of the homesteaders, finding that PPLA did not protect its interest in the lands because it failed to file a claim on the lands prior to the 1981 Land Registration Team hearings and because it conveyed the lands prior to any determination of ownership, thus giving up any interest it had in the lands. The trial court ruled against NSPLA because it gave up its interest in the lands through its letter conceding the land to the homesteaders. The trial court further found that the NSPLA was barred by the statute of

[2]The homesteading program was established under 67 TTC § 201 *et seq.*

[3]The terms of the homestead agreement required the homesteader to have cultivated 70% of the land within five years, after clearing the entire area within three years.

limitations from bringing its claims that the letter was fraudulent and a breach of fiduciary duty. NSPLA chose not to appeal, thus the only issues before this Court on appeal are those belonging to PPLA.

On appeal, PPLA claims that the trial court erred in ruling in favor of the homesteaders because the Land Commission ⊥89 had no jurisdiction to grant the lands to the homesteaders. In support, PPLA cited a Land Court case, *In the Matter of Ngokesiil/Bebul Ngertuker/Ngeyosech, Lot No. 28-3010 or 33-3010 and Ngertuker/Ngeyosech, Lot Nos. 33-3004, 34-3001 and 33-3005 located in Urdmang Hamlet, Ngardmau State,* Case No. LC/H 01-424 (decided June 20, 2003). We leave this question to another day because we agree with the trial court that PPLA no longer has a legally protected interest in the lands at issue in this case. Although PPLA claims that it retained an interest in the homestead lands when it quitclaimed the public lands in Ngatpang to NSPLA, this Court's examination of the quitclaim deed leads it to the same conclusion as the trial court: while the deed contains an exception that temporarily reserves the right to use the homestead lands to the existing homesteaders, the deed does not retain an interest in PPLA. Thus, whether or not PPLA was required to file a claim in the first place, its decision to transfer its interest more than twenty years ago bars it from now complaining about the Land Commission's disposition of the lands. The judgment of the Trial Division is therefore AFFIRMED.