

*Etibek v. Uchelkeiukl Clan*, 15 ROP 102 (2008)  
**MELLOMES ETIBEK,**  
**Appellant,**

v.

**UCHELKEIUKL CLAN,**  
**Appellee.**

CIVIL APPEAL NO. 07-028  
LC/R 06-413  
Supreme Court, Appellate Division  
Republic of Palau

Decided: May 15, 2008<sup>1</sup>

Counsel for Appellant: Ernestine K. Rengiil

Counsel for Appellee: *Pro Se*

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LOURDES F. MATERNE, Associate Justice; C. QUAY POLLOI, Associate Justice Pro Tem.

Appeal from the Land Court, the Honorable J. UDUCH SENIOR, Senior Judge, presiding.

PER CURIAM:

Appellant Mellomes Etibek appeals from that part of the April 30, 2007, Land Court Determination of Ownership awarding Homestead Lot No. 163, located in Ngerkeiukl Hamlet of Peleliu State, to Appellee Uchelkeiukl Clan. We remand the case to the Land Court for an examination of Appellant's claim that was improperly dismissed as untimely by the Land Court.

### **BACKGROUND**

This matter originated as part of a Notice for Filing Claims for certain lands within Ngerkeiukl Hamlet, Peleliu State, issued by Associate Judge Francisco J. Keptot on August 14, 2000. On March 13, 2001, Judge Keptot issued a second Notice for Filing of Claims for the same lands. Pursuant to the governing statute at the time, the deadline to file claims was May 18, 2001. *See* 35 PNC § 1308(a).<sup>2</sup> On August 7, 2001, Judge Keptot issued a Notice of Hearing

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<sup>1</sup> Upon reviewing the briefs and the record, the panel finds this case appropriate for submission without oral argument pursuant to ROP R. App. P. 34(a).

<sup>2</sup> "All claims shall be filed with the Land Court no later than 60 days prior to the date set for the hearing. Any claim not timely filed shall be forfeited." The hearing for the Tochi Daicho Lots claimed by Appellant was set for July 18, 2001.

\* Editor's Note: The slip opinion erroneously used the date "May 1, 2002" instead of

*Etibek v. Uchelkeiukl Clan*, 15 ROP 102 (2008)

scheduling hearings on the claims filed in response to the second Notice for Filing Claims. Hearings were conducted from January 21 - February 1, 2002. The matter was referred to the Supreme Court, which eventually remanded the matter to the Land Court for a determination. The claims were then separated based on the Peleliu Homestead Map and assigned to different Land Court judges for final disposition.

## **DISCUSSION**

¶103

Appellant's claim, among many others that lay within Homestead Lot No. 163, was referred to Senior Judge Senior. On November 3, 2006, Senior Judge Senior dismissed the claims of 18 claimants due to their failure to timely file claims before the May 18, 2001, deadline. But Appellant filed two claims for the lands that were before the Land Court; her first claim, for Tochi Daicho Lot Nos. 1944 and 1945, was filed on May 1, 2001, and her second claim, for Tochi Daicho Lot Nos. 1944, 1945, 1946, 1947, 1948, and 1949, was filed on June 14, 2005. Thus, while Appellant's second claim was properly dismissed for untimeliness, her claim to Tochi Daicho Lot Nos. 1944 and 1945, filed on May 1, 2001,\* was in fact timely and should not have been dismissed.

## **CONCLUSION**

The matter is remanded to the Land Court for consideration of Appellant's claim to Tochi Daicho Lot Nos. 1944 and 1945. It is within the discretion of the Land Court whether to hold a new hearing, as there is a transcript of Appellant's testimony from the hearing held before Judge Keptot in 2002. This transcript may constitute sufficient evidence on which to examine Appellant's claim.

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May 1, 2001. The date has been corrected to conform with the date used earlier in the paragraph.