Ngarameketii v. Koror State Pub. Lands Auth., 16 ROP 229 (2009)

NGARAMEKETII, RUBEKUL KLDEU, AND PEOPLE OF KOROR STATE,
Appellants,

v.

KOROR STATE PUBLIC LANDS AUTHORITY,
Appellee.

CIVIL APPEAL NO. 08-047
LC/B 07-557

Supreme Court, Appellate Division
Republic of Palau

Decided: September 3, 2009[1]

Counsel for Appellants: Carlos Hiros Salii

Counsel for Appellee: J. Uduch S. Senior

BEFORE: Chief Justice ARTHUR NGIRAKLSONG; ALEXANDRA F. FOSTER, Associate Justice; KATHERINE A. MARAMAN, Part Time Associate Justice

Appeal from the Land Court, RONALD RDECHOR, Associate Judge, presiding.

PER CURIAM:

Appellants challenge the land court's dismissal of their claim, arguing that they did, in fact, have a valid claim before the land court, and that they were deprived a hearing to substantiate this assertion. The land court dismissed Appellants' claim for failure to file by the statutory deadline for filing claims for the return of public lands. Appellee asserts that the land court was correct in dismissing the action, arguing that the plain language of Palau's statute for the return of public lands precludes Appellants' rights to a hearing or to the presentation of evidence. We agree with Appellee and affirm the holding of the land court in full.

BACKGROUND

In an action for the return of public land, pursuant to 35 PNC §1309, the only claimants to have filed a timely claim against Koror State Public Lands Authority ("Appellee"), Idid Clan, withdrew their claim at a July 10, 2008, hearing before the land court. During that same hearing, Appellants attempted to substitute themselves as claimants to the land, arguing that the claim of p.230 Idid Clan was in fact, their claim. The original claim was filed on December 30, 1988, on behalf of Idid Clan by its heads, Ibedul Y. Gibbons and Bilung G. Salii. It was filed with the

[1]The panel finds this case appropriate for submission without oral argument, pursuant to ROP R. App. P. 34(a).

Land Claims Hearing Office on the form entitled "Claims for Public Land (Pursuant to 35 PNC §1104)[2]." Appellants claimed at the hearing that, because Ibedul is the head of Idid Clan, and therefore the head of Ngarameketii, that his claim on behalf of Idid Clan was actually a claim on behalf of Ngarameketii, even though it did not state so in the claim.

At the close of the hearing on July 10, 2008, the land court stated that the hearing would be continued until July 21, 2008, to "allow Ngarameketii to obtain counsel." On July 21, Appellee filed a motion to dismiss, arguing that the original claim was not theirs, but that of Idid Clan, and that they could not be added as parties because they missed the statutory deadline for filing a claim for the return of public land. [3] The land court granted Appellants until August 1, 2008, to allow counsel time to respond to the motion. The land court granted Appellee's motion on August 6, 2008, finding that Appellants did not file a timely claim pursuant to the statutory framework. This appeal followed.

STANDARD OF REVIEW

The land court's conclusions of law are reviewed *de novo*. *Ilebrang Lineage v. Omtiliou Lineage*, 11 ROP 154, 156 (2004); *Espong Lineage v. Airai State Pub. Lands Auth.* , 12 ROP 1, 4 (2004).

DISCUSSION

The focus of Appellants' argument is that the land court erred in denying them an opportunity to be heard on the factual issue of whether the claim made by Idid Clan was implicitly a claim on their behalf. Appellants makes several policy arguments to support this contention. The first is that the land court implied that it would hold a factual hearing, by continuing the hearing in order to give Appellants an opportunity to hire counsel. Second, Appellants argue that they would have shown at the hearing that Ibedul instructed Bilung to file the claim on behalf of Appellants, and not just Idid Clan. Lastly, Appellants argue that they should have been added as claimants regardless of the September, 2006, deadline, because the action was a quiet title claim and not one for the return of public lands, citing *Espong Lineage v. ASPLA*, 12 ROP 1, (2004).

Appellee argues that the plain meaning of 35 PNC §1309 should control this matter, and that absent any statutory ambiguity, Appellants were not entitled an opportunity to present evidence at a hearing. Appellee cites to *Wenty v. ROP* , 8 ROP Intrm. 188, 189 (2000), for the notion that the court must first look to the plain words of a statute in attempting to interpret its meaning, and to *Senate v. Nakamura* , 7 ROP p.231 Intrm. 212, 216 (1999), to support its contention that the court need not look beyond the unambiguous wording of a statutory provision. Therefore, Appellee argues, Appellants were never entitled to a hearing in order to present the merits of their claim, because they were time barred from even filing a claim.

We agree with Appellee and affirm the decision of the land court in dismissing this

[2]Section 1104 has since been repealed and replaced by the chapters in 35 PNC §1301 *et seq*.
[3]Pursuant to 35 PNC § 1309 (a), all claims must be filed no later than 30 days prior to the date of monumentation, in this case September 22, 2006, or else their claims would be forfeited.

matter. The statute for the filing of claims for the return of public lands states that "all claims shall be filed with the Bureau no later than 30 days after the mailing of the notice. Any claim not timely filed shall be forfeited." Appellants do not dispute that they missed this deadline. Rather, they would have the court substitute them as parties, despite the plain meaning of the statute, because of public policy. We cannot condone a clear violation of the statute simply because Appellants claim that their representative wanted to include them in the original claim, but for some reason did not. This would open the door for any number of *nunc pro tunc* declarations by claimants, and deprive our statutes of their intended and clear meanings.

In addition, we cannot agree, and we find it perhaps disingenuous that Appellants contend that this case is one for quiet title, and not for the return of public lands, and therefore that the statutory deadline does not apply. In *Espong Lineage*, the case upon which Appellants rely, a timely claim was filed for both the return of public land by some claimants and for quiet title by others. *Espong Lineage*, 12 ROP at 5. There, we held that it was permissible to deduce at the hearing which claimants could establish quiet title to the claim, and which were entitled to the return of public land, because both claims were timely filed. Here, however, Idid Clan specifically filed a claim for the return of public land. It is this claim for which Appellants wish to be substituted. Appellants' "Appendix D," attached to their opening brief, is a copy of Idid Clan's original claim. It is entitled "Claim for Public Land." If, as Appellants, argue, this claim was also their original claim, they cannot now argue that their claim is one for quiet title, simply to avoid the statutory deadline associated with 35 PNC § 1309. Appellants were procedurally barred by the statute, and were not parties to the original claim. This fact cannot be modified or corrected by the presentation of evidence.

CONCLUSION

We hold that Appellants were time-barred by the plain language contained in 35 PNC § 1309 (a). We **AFFIRM** the land court's dismissal of the action below in full.