

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

**PELELIU STATE GOVERNMENT and PELELIU STATE
PUBLIC LANDS AUTHORITY,**

Appellants,

v.

**THEODORE IKEDA, LUCAS IKEDA, MERII IKEDA,
CLARET IKEDA, KELBID IKEDA and DIDIL IKEDA,**

Appellees.

Cite as: 2017 Palau 22
Civil Appeal No. 16-015
Appeal from Civil Action No. 14-103

Decided: May 18, 2017

Counsel for AppellantsSiegfried B. Nakamura

Counsel for Appellees

Theodore IkedaRonald Ledgerwood

Lucas Ikeda.....Salvador Remoket

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice
JOHN K. RECHUCHER, Associate Justice
DENNIS K. YAMASE, Associate Justice

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

OPINION

PER CURIAM:

[¶ 1] This appeal arises from an estate proceeding in which the Trial Division’s dismissal of a collateral attack brought by Peleliu State Government (“PSG”) and Peleliu State Public Lands Authority (“PSPLA”) on the certificates of title to lands held by decedent known as *Ngerbekall* (formerly Tochi Daicho 961, Cadastral Lot No. 001 R 02) and *Elochel* (Tochi Daicho 962, Cadastral Lot No. 001 R 03) both of which are located in Ngerdelolk Hamlet of Peleliu State. Appellants contend that a portion of these lands (the “Disputed Area”) are filled lands and therefore public lands belonging to Peleliu State, not to decedent, and that the filled portions of

these properties should not be part of decedent's estate. The Trial Division dismissed Appellants' claims, and Appellants now argue that the Trial Division erred by dismissing Appellants' collateral attack on the certificates of title and abused its discretion for failing to consider the merits of Appellants' claim in making that determination. For the reasons that follow, we **AFFIRM** the decision of the Trial Division.

BACKGROUND

[¶ 2] This Appeal arose out of an estate matter for decedent Ikeda Ngirachelbaed in which the parties disputed who should receive title to decedent's interest in the Disputed Area. Certificates of Title for these properties were issued to Ikeda Ngirachelbaed and his two siblings, Haruko Ngirachelbaed and Ermas Ngirachelbaed, by the Land Claims Hearing Office in 1986 as part of Formal Hearing 67. Palau Public Land Authority ("PPLA") appeared at this hearing to claim Tochi Daicho lots 963 and 964 and was awarded those lots, but did not claim Tochi Daicho lot 961 (*Ngerbekall*) or 962 (*Elochel*).

[¶ 3] Decedent Ikeda Ngirachelbaed died intestate on October 5, 1987, survived by his wife. An *eldechoduch* was held at which neither *Ngerbekall* nor *Elochel* were discussed or distributed. On July 4, 2014, decedent's children petitioned to open an Estate and transfer Ngirachelbaed's interest in these properties to them. Appellants filed their claim on August 29, 2014 in response to the public notice. Appellants do not claim as heirs of decedent, but instead sought to prove at trial that decedent should never have been awarded those portions of *Ngerbekall* and *Elochel* that are filled lands created by the American government following World War II, and that those portions should instead be awarded to the State of Peleliu. After a trial at which Appellants presented evidence that it is more likely than not that portions of these properties are filled lands, the Trial Division dismissed Appellants' claim and ordered the Land Court to issue a new certificate of title in which decedent's interest in *Ngerbekall* and *Elochel* were transferred to his children. Appellants now appeal the dismissal of their claim.

STANDARD OF REVIEW

[¶ 4] We review a lower court's conclusions of law de novo and its factual findings for clear error. *See, e.g., Minor v. Rechucher*, 22 ROP 102, 105 (2015). We may affirm a decision of the Trial Division for any basis apparent in the record. *Id.*

DISCUSSION

[¶ 5] Appellants argue that the Trial Division erred in disregarding evidence that the Disputed Area was filled by the United States Military at some point after World War II. Appellants argue that it is legally impossible for decedent to have ever owned the Disputed Area because it is fill land and there was no transfer of title to decedent. We agree that the fact that land is fill land is highly informative in determining ownership because it establishes a clear and relatively recent starting point for tracing the chain of title. For the purpose of this appeal, we will assume without deciding that if an initial ownership determination were made today, the property would be awarded to Appellants under the well-established rule that when the government purposely fills in marine area, title to the land created remains with the government. *See, e.g., PPLA v. Salvador*, 8 ROP Intrm. 73, 75 (1999). However, the initial ownership determination to the Disputed Area was made over 30 years ago during Formal Hearing 67. The Trial Division did not err in holding that Appellants must first collaterally attack decedent's certificate of title, no matter how meritorious their claim might otherwise be.

[¶ 6] In the absence of a constitutional or procedural defect, determinations by the Land Court or Land Claims Hearing Office pursuant to the land claims process are conclusive against the world, including public lands authorities and state governments. 35 PNC § 1314 (b); *see Koror State Pub. Lands Auth. v. Wong*, 21 ROP 5, 8-10 (2012) (affirming dismissal of collateral attack by State Public Lands Authority). To avoid the conclusive effect of the prior determination, Appellants must "prov[e] non-compliance with statutory or constitutional requirements by clear and convincing evidence." *West v. Ongalek ra Iyong*, 15 ROP 4, 8 (2007). This burden is intentionally heavy because "there is a strong public policy that favors finality in determinations of ownership of real property." *Ucherremasech v. Wong*, 5 ROP Intrm. 142, 146 (1995). Appellants do not point to any

evidence of such non-compliance in their briefing, and having reviewed the record we see no evidence of procedural errors in Formal Hearing 67 that would affect the validity of decedent's title. We therefore hold that the Trial Division correctly dismissed Appellants' collateral attack.

[¶ 7] Appellants also argue that they should not be bound by the result of Formal Hearing 67 because PPLA did not have authority to act on behalf of PSG, so PSG was not a party to the hearing. We need not and do not address this argument, since the results of Formal Hearing 67 are conclusive against PSG whether or not it participated in the hearing. 35 PNC § 1314 (b).

CONCLUSION

[¶ 8] For the foregoing reasons, the decision of the Trial Division is **AFFIRMED**.

SO ORDERED, this 18th day of May, 2017.