

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

<p>FELICIANO BLAILES Represented by Augustino Blailes, <i>Appellant,</i> v. SABINO BEKEBEKMAD Represented by Lukas Bekebekmad, <i>Appellee,</i></p>

Cite as: 2018 Palau 5
Civil Appeal No. 17-005
LC/E 08-0625

Decided: May 31, 2018

Counsel for Appellant..... Vameline Singeo
Counsel for Appellee..... J. Uduch Sengebau Senior

BEFORE: JOHN K. RECHUCHER, Associate Justice
R. BARRIE MICHELSEN, Associate Justice
DENNIS K. YAMASE, Associate Justice

OPINION

PER CURIAM:

[¶ 1] In this case, because the Land Court committed no error in determining that its own Determinations of Ownership should be vacated after it discovered an earlier Certificate of Title issued for the same lots, the Land Court's decision is affirmed.

IDENTIFICATION OF THE PARTIES

[¶ 2] We identify the real parties in interest here for legal clarity regarding claims and ownership.

[¶ 3] The notice of appeal in this case was by “claimant Feliciano Blailes, represented by Augustino Blailes”. However, we learn from the record that although Feliciano Blailes was alive at the time of a 2009 settlement agreement, he was deceased at the time of the proceedings below. A deceased person cannot be a claimant. Therefore, Augustino Blailes was not

“representing” Feliciano Blailes in this appeal. Specifically, Augustino was pursuing the case as one for “the Children of Leleng,” identified by the Land Court as Feliciano, Augustino, Ichiro, Sadami, Namiko, Ramona, and Adelina Blailes. We shall sometimes collectively refer to them as “Blailes.”

[¶ 4] The Appellee is listed as Sabino Bekebekmad, but that is also incorrect. The record shows that Sabino is deceased, so in this case he is not “represented” by Lukas Bekebekmad. Rather, Lukas is his successor in interest, and he is sole owner of the interest claimed in this case. See, *In re Estate of Sabino Bekebekmad*, CA No. 07-374 (Tr. Div. Dec. 11, 2017).

STANDARD OF REVIEW

[¶ 5] “We review the Land Court's conclusions of law de novo and its findings of facts for clear error.” *Kebekol v. Koror State Pub. Lands Auth.*, 22 ROP 38, 40 (2015).

PROCEEDINGS IN LAND COURT

[¶ 6] The facts, once garnered from the record, are not at issue.¹ The parties’ ownership claims are related to Tochi Daicho Lots 1540 and 1600, as well as Tochi Daicho Lots 1560, 1561, and 1652. Lot 1540 was depicted on Worksheet No. 06E002-001. Judge Salvador Ingereklii issued a Certificate of Title for Lot 1540 (Worksheet No. 06E002-001) in 2007.

¹ Appellant has chosen to have a section entitled “Factual and Procedural Background” with some facts, and a subsequent argument section with additional facts. This approach makes the presentation harder to follow and is not in compliance with ROP R. App. P. 28, which requires a “Statement of the Case” prior to the argument section.

Furthermore, for ease of comprehension the facts should be stated “with pinpoint citation” in the Statement of the Case, with the subsequent argument based on those facts.

Rule 28 is not a collection of useful suggestions. It is a Rule, and this Court expects compliance. *Shmull v. Chen*, 17 ROP 13 (2009); *Ngetchab Lineage v. Klewei*, 16 ROP 219 (2009); *Dalton v. Borja*, 12 ROP 65 (2005); *Koshiha v. Alonz*, 7 ROP Intrm. 4 (1998) (requiring Appellant to submit a corrected brief in conformity with Rule 28).

[¶ 7] Tochi Daicho Lots 1560, 1561, 1562, and 1600 were depicted in Worksheet No. 06E002-001A. These lots were initially claimed by Blailes and Bekebekmad.

[¶ 8] The conflicting claims regarding Lot 1560, 1561, 1562, and 1600 were settled without a contested hearing in 2009. Feliciano Blailes (presumably on behalf of all the “Children of Leleng”) withdrew claims to Lot 1600 and Lukas Bekebekmad withdrew claims to 1560, 1561, and 1562. The Land Court, Senior Judge Polloi presiding, issued Determinations of Ownership consistent with that settlement.

[¶ 9] The subsequent dispute arose when it came to the attention of the Land Court and the parties that there was an overlapping area in the Worksheets. As succinctly stated by the Land Court, “part of what was claimed by the Children of Leleng and all of what Sabino Bekebekmad claimed as Tochi Daicho 1600 were in an area that was already adjudicated and for which a Certificate of Title already existed.”

[¶ 10] Consequently, Senior Judge Polloi vacated his Determinations that conflicted with the Certificate of Title issued by Judge Ingereklii. The result was that Sabino Bekebekmad retained all of the property in the overlapping area as a consequence of the 2007 Certificate of Title. In his written findings of fact and conclusions of law, Senior Judge Polloi concluded by stating “[a]ny aggrieved claimant may file an appropriate motion with this Court or appeal the Determination of Ownership pursuant to the Appellate Rules of Procedure.”

[¶ 11] No subsequent motions were filed in the Land Court.

DISCUSSION

[¶ 12] On appeal, Blailes’ argument is that the Land Court should have cancelled the Certificate of Title issued by Judge Ingereklii in 2007 and given effect to the Bekebekmad-Blailes 2009 settlement agreement. There are problems with that approach. Blailes never asked for such relief in the Land Court. The Land Court invited post-findings motions, but Blailes did not take the offer. Arguments made for the first time on appeal are waived, absent

exceptional circumstances not present here. *Fritz v. Materne*, 23 ROP 12 (2015), (collecting cases).

[¶ 13] Even if a cancellation argument would have been made, it does not have merit. First, although this Court has acknowledged that the Land Court has authority to correct its own errors and void Certificates of Title, see *In re Idelui*, 17 ROP 300 (2010), the errors or mistakes relate to that court's need to correct decisions made *in that case*. The Land Court does not have a roaming license to reconsider decisions made in other Land Court cases at other times.

[¶ 14] Regarding any statutory or constitutional defects in the process of issuing either a Determination of Ownership or Certificate of Title, the Trial Division of this Court has long been considered the proper venue for such claims. *Emaudiong v. Arbedul*, 5 ROP Intrm. 31, 35 (1994) (permitting claim contesting Certificate of Title to proceed at trial level where Certificate was issued "without a hearing and without a Determination of Ownership that could have been appealed"); *Obak v. Bandarii*, 7 ROP Intrm. 254 (Tr. Div. 1998) (considering claim that Certificates of Title issued without hearing or Determination of Ownership were invalid because they were based on unauthorized transfers of title). *Nakamura v. Isechal*, 10 ROP 134, 136 (2003) (collateral attack on a Determination of Ownership rendered by the Land Court's predecessor, the Land Commission, allowed in the Trial Division based on complaint that statutory or constitutional procedural requirements were not complied with). *Whipps v. Ngatpang State Public Lands Auth.*, 14 ROP 200, 203 (Tr. Div. 2007) ("[I]t is not disputed that the Land Court issued both the Determination of Ownership and the Certificate of Title for the disputed property to Defendant without providing notice to Plaintiff or conducting a hearing. Accordingly, the validity of the Certificate in Defendant's name is reviewable by this Court.")

[¶ 15] In summary, the issue whether a Land Court Determination or Certificate should be deemed void or otherwise ineffective is the responsibility of the Trial Division and, if appealed, the Appellate Division, of the Supreme Court. It is not within the authority of one Land Court judge to review, and to declare void, another Land Court judge's Determinations of Ownership or Certificates of Title.

[¶ 16] Finally, we do not reach any issues regarding the enforceability of the 2009 settlement agreement, and whether it acts as a transfer or waiver of rights by Bekebekmad concerning the 2007 Certificate of Title. The matters were not briefed here, nor argued in the Land Court.

CONCLUSION

[¶ 17] The Land Court's vacating of the Determinations of Ownership, to the extent they were inconsistent with previously-issued Certificate of Title issued in an earlier case, is **AFFIRMED**.

SO ORDERED, this 31st day of May, 2018.