

Remeliik v. Ngerbuuch Lineage, 13 ROP 19 (2005)
POSTOL REMELIIK,
Appellant,

v.

NGERBUUCH LINEAGE, BARRET RIDEP, and MAYUMI RIDEP,
Appellees.

CIVIL APPEAL NO. 04-007
Civil Action No. 00-18

Supreme Court, Appellate Division
Republic of Palau

Decided: November 2, 2005

Counsel for Appellant: Carlos H. Salii

Counsel for Ngerbuuch Lineage: David J. Kirschenheiter

Counsel for Rideps: Raynold B. Oilouch

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LOURDES F. MATERNE, Associate Justice; JANET HEALY WEEKS, Part-Time Associate Justice.

Appeal from the Supreme Court, Trial Division, the Honorable LARRY W. MILLER, Associate Justice, presiding.

WEEKS, Justice:

Postol Remeliik believes he is entitled to ownership of two parcels of land in Peleliu based on a promise from a past chief of the Ngerbuuch Lineage. The trial court denied his claim for specific performance, however, finding insufficient evidence that the chief had actual or apparent authority to transfer the Lineage's land. Remeliik also sought recovery on the basis of fraud, but the trial court concluded that his claim was barred by the statute of limitations. For the reasons set forth below, we affirm the decision of the trial court.

BACKGROUND

At issue are two parcels of land in Ngerdelolk Hamlet of Peleliu State, identified as Cadastral Lot No. 003 R 06, known as *Elochel*, and Lot No. 003 R 11, known as *Dort*. The lands are listed in the Tochi Daicho as the individual property of Obak Rechetuker, Remeliik's great-grandfather by birth and his grandfather by adoption. Remeliik planned to file a claim of ownership for these lots, but sometime prior to 1987, Smau Ngeliei, who was at the time the chief of Ngerbuuch Lineage, assured him that the Lineage would claim the lands and then

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transfer them to him. Remeliik also testified that he contacted Smau Ngeliei again and later spoke to one of his successors, Smau Sasao Meseral, about the property but was informed that the lands were on appeal.

¶20 Sammy Ocheraol, a strong member of the Lineage who currently bears the title Umedib, testified that he was unaware of any arrangement with Remeliik about the lots. He also asserted that Smau Ngeliei was not authorized by the Lineage to transfer any land.

According to Remeliik's testimony, he learned in February 2000 that a use right had been given to Barret and Mayumi Ridep, and thus he discovered that Ngerbuuch Lineage had received determinations of ownership to the lands in 1987 and certificates of title in 1991. He filed this lawsuit shortly thereafter.

Remeliik's complaint raises two claims. First, he sought specific performance, asserting that Smau Ngeliei and Smau Sasao promised him that Ngerbuuch Lineage would transfer title of the lots to him but failed to follow through on that agreement. Second, he brought a fraud claim based on the same unfulfilled promise and maintained that he opted not to file an individual claim for the land because of the representations of the Ngerbuuch Lineage chiefs.

Although the trial court credited Remeliik's understanding of the arrangement with Smau Ngeliei and Smau Sasao, it ruled in favor of Ngerbuuch Lineage on both counts. As to Remeliik's request for specific performance, the trial court concluded that he could not succeed unless he could establish that Smau Ngeliei had actual or apparent authority to agree to transfer the Lineage's land. Given the lack of evidence concerning Smau Ngeliei's authority presented by Remeliik, and Ocheraol's testimony that Smau Ngeliei did not have authority to transfer the lands, the trial court denied Remeliik's claim for specific performance. The trial court employed a different analysis for Remeliik's fraud claim, accepting for purposes of the decision that statements of a chief of a lineage could be attributed to that lineage. Instead, the trial court found that this claim was barred by the six-year statute of limitations since the Lineage received certificates of title in 1991.

Remeliik appeals the decision of the trial court, and in evaluating his arguments, we review *de novo* the trial court's conclusions of law and its factual findings for clear error. *Palau Cmty. Coll. v. Ibai Lineage*, 10 ROP 143, 145 (2003).

ANALYSIS

As to the trial court's denial of his claim for specific performance, Remeliik asserts that the claim is for recovery of land and so falls under the 20-year limitations period. But Remeliik misreads the trial court's decision, which did not conclude that the specific performance claim was time-barred. Instead, the court found insufficient evidence of any authority of Smau Ngeliei to transfer land on behalf of the Lineage.

Remeliik asserts that "at the very least," he is entitled to a hearing on the question of Smau Ngeliei's authority to bind Ngerbuuch Lineage. In support, he claims that the trial court

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conceded this much in footnote two of its decision, wherein the court mentions a new hearing. Again, however, Remeliik misinterprets the trial court's comments, which were addressing the possible viability of Remeliik's fraud claim before concluding that it was barred by the statute of limitations. Nothing in the trial court's opinion suggests that a hearing on the issue of Smau Ngeliei's authority to transfer Lineage land would now be appropriate after the trial was completed, all the evidence assessed, and the decision rendered.

Addressing the trial court's ruling on **121** his fraud claim, Remeliik asserts that the trial court erred in applying the six-year statute of limitations period and instead should have employed the 20-year limitations period for all "actions for the recovery of land or any interest therein." 14 PNC § 402(a)(2). His argument, however, is foreclosed by this Court's recent decision in *Isimang v. Arbedul*, 11 ROP 66 (2004), which held that "actions for the recovery of land," for which the 20-year statute of limitations applies, include claims in which the plaintiff is asserting that he never parted with title to his land and is entitled to immediate possession of it. *Isimang*, 11 ROP at 71-72. In contrast, in cases where the plaintiff parted with his land—or in this case, never acquired title to it—even if through allegedly wrongful means, the plaintiff may not claim immediate possession of the land because some other transaction or deed must be undone. *Id.* As such, that plaintiff's claim is not "for the recovery of land" and so the six-year limitations period applies.

The appellants in *Isimang* brought, among other things, a fraud claim alleging that they signed a deed transferring their land without knowing the true nature of the document. We held that the six-year statute of limitations applied. *Id.* at 72. Here, Remeliik's fraud claim is slightly different, focusing on Ngerbuuch Lineage's fraudulent promise of something it never delivered, but it too is one where Remeliik would not be entitled to immediate possession of the land until some additional transaction is completed. Accordingly, given the holding in *Isimang*, we must uphold the trial court's application of the six-year limitations period and affirm its conclusion that Remeliik's fraud claim comes too late.

CONCLUSION

For the foregoing reasons, we affirm the decision of the trial court.

NGIRAKLSONG, Chief Justice, concurring:

I concur in the judgment announced above. I write separately only to reiterate my dissent from this court's decision in *Isimang v. Arbedul*, 11 ROP 66 (2004). My concurrence in the present case should not be taken as a repudiation of my comments set forth there.