

Diaz v. Estate of Ngirchorachel, 14 ROP 110 (2007)
ALFONSO N. DIAZ,
Appellant,

v.

ESTATE OF NGIRCHORACHEL ILILAU,
Appellee.

CIVIL APPEAL NO. 06-037
Civil Action No. 03-369

Supreme Court, Appellate Division
Republic of Palau

Decided: May 21, 2007¹

Counsel for Appellant: J. Roman Bedor

Counsel for Appellee: Mariano W. Carlos

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; KATHLEEN M. SALII, Associate Justice; ROSE MARY SKEBONG, Associate Justice Pro Tem.

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

SKEBONG, Justice:

Appellant Alfonso Diaz appeals the Trial Division's order voiding the deed transferring land from Appellee Ngirchorachel Ililau to Diaz because it found that Diaz was not a citizen of the Trust Territory or Palau at the time of the transfer. The legal conclusions are not in dispute, Diaz only questions whether the Trial Division erred in its factual finding. Having considered the arguments of the parties, we affirm the judgment of the Trial Division.

Ngirchorachel owned a parcel of land known as *Ilemau* located in Ngermid Hamlet of Koror State. On June 28, 1983, the land was transferred in fee simple from Ngirchorachel to Diaz. Ngirchorachel died in 1996 and his estate brought this case to recover the land from Diaz.

Article XIII § 8 of the Palau Constitution mandates that only a citizen of Palau may acquire title to land and waters in Palau. Diaz became a citizen of the Trust Territory by birth. "All persons born in the Trust Territory shall be deemed to be citizens of the Trust Territory, except persons, born in **§ 1111** the Trust Territory, who at birth or otherwise have acquired another nationality." 53 TTC § 1. If Diaz had otherwise "acquired another nationality," then he no

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

Diaz v. Estate of Ngirchorachel, 14 ROP 110 (2007)

longer retained his Trust Territory citizenship. In 1969, he became a United States citizen. In 1999, Diaz renounced his United States citizenship and became a naturalized citizen of Palau. In his sworn petition in Civil Action No. 99-301, Diaz stated that, “when I was in U.S. Military my job was handling classified documents which . . . required . . . me to renounce my Palauan citizenship in order for me to perform my duty under U.S. military code.” Diaz now claims he did not renounce his Trust Territory citizenship in 1969. Diaz submitted a sworn affidavit to the Trial Division stating that, “[w]hen I became a United States Citizen I was not required to renounce my Trust Territory Citizenship as it was not required. I was allowed to maintain my Trust Territory citizen [sic] while at the same time being a citizen of the United States.” The Trial Division found that Diaz renounced his Trust Territory Citizenship when he became a United States citizen in 1969.

Factual findings of the lower court are reviewed using the clearly erroneous standard. *Hanpa Indus. Corp. v. Black Micro Corp.*, 12 ROP 29, 32 (2004). Besides Diaz’s sworn statement in CA No. 99-301 providing proof that he did renounce his Trust Territory citizenship, the statute governing United States naturalization requires that “[a] person who has applied for naturalization shall, in order to be and before being admitted to citizenship, take . . . an oath . . . (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the applicant was before a subject or citizen” 8 U.S.C. § 1448(a). In order to become a United States citizen, Diaz must have renounced his Trust Territory citizenship. The Trial Division did not clearly err when it found that Diaz renounced his Trust Territory citizenship.²

As Diaz was neither a citizen of Palau nor the Trust Territory at the time of the land transfer, the Constitution prohibited him from acquiring the title to the land and the deed that he acquired is void. Accordingly, the Trial Division’s judgment is affirmed.

²Diaz’s arguments pertaining to the laws governing the transition of citizenship from Trust Territory to Palauan that occurred between 1981 and 1994 are irrelevant because Diaz was a citizen of neither the Trust Territory nor the Republic of Palau during that time period.