

Sumang v. Skibang Lineage, 16 ROP 4 (2008)

Ideson Sumang,

Appellant,

v.

Skibang Lineage,

Appellee.

CIVIL APPEAL NO. 07-057

LC/B 07-569

Supreme Court, Appellate Division
Republic of Palau

Decided: October 2, 2008¹

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Counsel for Appellant: Pro Se

Counsel for Appellee: N/A

BEFORE: KATHLEEN M. SALII, Associate Justice; LOURDES F. MATERNE, Associate Justice; ALEXANDRA F. FOSTER, Associate Justice.

Appeal from the Land Court, the Honorable C. QUAY POLLOI, Senior Judge, presiding.

PER CURIAM:

In the Land Court registration proceeding below, Ideson Sumang filed the sole claim for Tochi Daicho Lot No. 199. Sumang claimed that Tochi Daicho Lot No. 199 corresponds to Cadastral Plat Lot No. 008 B 43. On August 30, 1978, however, the Palau District Land Commission issued a certificate of title to Skibang Lineage for Tochi Daicho Lot Nos. 201-A, 202, and 204, corresponding to the same Cadastral Plat Lot No. 008 B 43. In the proceeding below, Sumang sought to have the Land Court cancel the earlier certificate of title awarded to Skibang Lineage and award him a new certificate of title listing him as the owner of Tochi Daicho Lot No. 199, corresponding to Cadastral Lot No. 008 B 43. The Land Court refused, holding that certificates of title are conclusive against all persons with notice of the proceedings and that even if Sumang could prove he was not notified of the earlier proceeding, the Land Court had no jurisdiction to remedy the situation. Sumang appeals the decision. After careful review, we affirm the Land Court's Summary of Adjudication, Findings of Fact, and Conclusions of Law and dismiss the appeal.

STANDARD OF REVIEW

¹ Upon 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).

This Court reviews the Land Court's conclusions of law *de novo*. See *Ngirmeriil v. Estate of Rechucher*, 13 ROP 42, 46 (2006). The lower court's findings of fact are reviewed for clear error. See *Id.* Thus, this panel will set aside the factual determinations of the lower court only if they lack evidentiary support in the record such that no reasonable trier of fact could have reached the same conclusion. *Id.*

DISCUSSION

Appellant raises three points on appeal. First, he asserts that the Land Court erred when it declared it had no authority to cancel a certificate of title. He bases this argument on *Ngirasibong v. Adelbai*, 4 ROP Intrm. 95 (1993). In that case, although the court stated the general rule that certificates of title must be considered final, the court held that the Land Commission had the authority to withdraw an erroneous certificate and issue a new one. See *id.* at 100. In our view, the Land Court properly distinguished *Ngirasibong* from the case at bar. In *Ngirasibong*, the parties stipulated to a boundary that was previously in dispute. "The Land Commission, through no fault of either party, relied on an erroneous survey that did not reflect the stipulated boundary. The second certificate thus served merely to carry out what [had] been agreed to by the parties to the proceeding." *Id.* In *Ngirasibong*, the Land Commission corrected what was essentially a clerical error in order to reflect the agreement of the parties. In this case, there is no agreement p.6 between the parties; Appellant attempts to overturn a thirty year old determination that was made in favor of Skibang Lineage, which is not even a party to this action. Nor is this a clerical error; Appellant asserts that a boundary dispute was not properly resolved, leading to a mapping error that caused the Land Court to issue a certificate of title to the wrong party. The "unique" circumstances of *Ngirasibong* are simply not present here.

Second, Appellant disagrees with the Land Court's suggestion that his exhibits, purporting to be Tochi Daicho maps showing Lot No. 199 as corresponding with Cadastral Lot No. 008 B 43, were not convincing. But the Land Court did not base its decision on this question, as it stated that "the problematic issue that arises, therefore, is whether Cadastral Lot No. 008 B 43 is comprised of Tochi Daicho Lot No. 199 or Tochi Daicho Lot Nos. 201, 202, and 204. . . . [T]he Court ultimately is not required to resolve this issue." Adjudication at 6. The Court did not rule on whether there was a mapping error or whether Tochi Daicho Lot No. 199 or Lots 201-A, 202, and 204 correspond with Cadastral Lot No. 008 B 43. In fact, the Court held that the certificate of title awarded to Skibang Lineage could not be attacked in this proceeding even assuming there was a mapping error. "[C]laimants do allege that error was committed because Skibang Lineage was awarded a lot (Cadastral Lot No. 008 B 43) different from that which it claimed (TD 201-A). Even so, 'A certificate of title shall be conclusive upon all persons so long as notice was given. . . and shall be prima facie evidence of ownership.'" Adjudication at 7-8 (citing 35 PNC § 1314(b)(emphasis added)). The Land Court did not discredit Appellant's claim of a mapping error, but held that Appellant could not challenge Skibang Lineage's certificate of title in this proceeding to register a different Tochi Daicho Lot. No reversible error lies on this second point of appeal.

Finally, Appellant disagrees with the Land Court's conclusion that it did not have jurisdiction to hear Appellant's claim, even if Appellant could prove he had no notice of the 1978

adjudication granting Cadastral Lot No. 008 B 43 to Skibang Lineage. Appellant argues that his timely filed claim to Tochi Daicho Lot No. 199 should be heard and determined by the Land Court. But what Appellant misses is that his claim *was* heard and decided by the Land Court. His claim for Lot No. 199 is premised on Lot No. 199 corresponding with Cadastral Lot No. 008 B 43. The Land Court realized that a certificate of title to Cadastral Lot No. 008 B 43 was already issued to the owner of Tochi Daicho Lot Nos. 201-A, 202, and 204. Appellant's claim as presented in the Land Court must fail because the proper avenue for claiming that Cadastral Lot No. 008 B 43 was wrongly assigned to Tochi Daicho Lot Nos. 201-A, 202, and 204 is not through the Land Court proceedings to register and claim Tochi Daicho Lot No. 199. As the Land Court correctly recognized, "the law clearly bars monumentation of a parcel of land the boundaries of which has been previously monumented and resolved. Logically, a claim to register a parcel of land that has already been registered is an invalid claim. Because Cadastral Lot No. 008 B 43 has been monumented and its boundaries have been resolved, and because the land has been registered, subsequent claims to register ownership of the land are barred by operation of law." Adjudication at 8-9 (citing 35 PNC § 1307(a), § 1309(a) (footnote omitted)).

p.7 For these reasons, the Summary of Adjudication, Findings of Fact, and Conclusions of Law of the Land Court is **AFFIRMED** and the appeal is **DISMISSED**.