Rurcherudel v. Airai State, 1 ROP Intrm. 620 (1989)

KAUD RURCHERUDEL,[1]
Appellant,

v.

AIRAI STATE
Appellee.

CIVIL APPEAL NO. 15-87
Civil Action No. 18-83

Supreme Court, Appellate Division
Republic of Palau

Opinion
Decided: May 22, 1989

Counsel for Appellant: Carlos H. Salii

Counsel for Appellee: Johnson Toribiong

BEFORE: MAMORU NAKAMURA, Chief Justice; ARTHUR NGIRAKLSONG, Associate Justice; FREDERICK J. O'BRIEN, Associate Justice.

O'BRIEN, Associate Justice Pro Tem:

This is an appeal from an April 15, 1987, decision of the Trial Division, acting as a first stage appellate tribunal to decide an appeal of the Palau Land Commission's Determination of Ownership Nos. 1256, 1257, 1258, 1259, 1260, and 1261, issued on August 2, 1982, regarding certain lands in Airai State.

⊥621 The lands at issue had been previously found to be the property of the Trust Territory Government in Determination of Ownership and Release No. 77, issued on September 13, 1956, by District Land Title Officer D. W. LeGullon.

The process leading to the Palau Land Commission's decision began with the designation of the entire area of Airai in 1975. A hearing was held by the Airai Land Registration Team between June 26 and August 6, 1980, and its decision was issued on December 15, 1980. The Palau Land Commission issued its determinations of ownership on August 2, 1982.

Regarding the authority of the Airai Land Registration Team to redetermine the ownership of the lands at issue, the applicable law from 1970 to 1980 was 67 TTC § 112:

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[1] Kaud died after the appeal from the Land Commission was filed in the Trial Division of this Court, and her son, Skebong Ilapsis was substituted as Plaintiff/Appellant.

> Neither a Commission nor a land registration team, however, shall endeavor to redetermine any matter already decided between the same parties or those under whom the present parties claim, by a court judgment or a Land Title Officer's Determination of Ownership. All Commissions and land registration teams shall accept such prior determinations as binding on such parties without further evidence than the judgement or determination of ownership.

The Airai Land Registration Team based its decision on the earlier determination by the District Land Title Officer and held that it was bound by the statute to accept that prior determination as binding.

⊥622 In 1974, however, 67 TTC 112 was amended by Secretarial Order 2969. The language of the amendment was printed in the 1980 edition of the Trust Territory Code to read as follows:

> . . . Neither an adjudicatory body referred to in section 3 of secretarial order 2969 nor a commission nor a land registration team, however, shall endeavor to redetermine any matter already decided between the same parties or those under whom the present parties claim, by a court. An adjudicatory body referred to in section 3 of secretarial order 2969, commissions, and land registration teams shall accept such prior determinations as binding without further evidence than the judgement or determination of ownership . . . (emphasis added).

It would seem therefore, that the Airai Land Registration Team erroneously applied the superceded version of 67 TTC 112 when it promulgated its findings and conclusions, since a decision of the District Land Title Officer is not a determination by a court. However, when we examine Secretarial Order 2969, we find, in Section 8(c), that the crucial language is ambiguously worded:

> Section 112 of Title 67 of the Trust Territory Code is hereby amended to read as follows:
>
> Section 112. Conduct of Hearing
>
> . . . . Neither an adjudicatory body referred to in Section 3 of Secretarial Order 2969 nor a Commission nor a land registration team, however, shall endeavor to redetermine any matter already decided between the same parties or those under whom the present parties claim , by a court, an adjudicatory body referred to in Section 3 of Secretarial Order 2969. Commissions, and land registration teams shall accept such prior determinations as binding on such parties without further evidence than the judgment or determination of ownership. (emphasis added).

⊥623 Since Section 8(c) specifically refers to Section 3, to dispel the ambiguity, we turn to Section 3 of Secretarial Order 2969, where we find the following language:

> Section 3. Authority of District Legislatures. The district legislatures are hereby given the exclusive authority within their respective districts to:
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> (b) establish an adjudicatory body to resolve claims disputes as to titles or rights in land transferred to the district legal entity, provided, however, that no such body shall have the authority to redetermine any claim or dispute as to right or title to land between parties or their successors or assigns where such claim or dispute has already been finally determined or is in the process of being finally determined either by a Land Title Officer, by a Land Commission or a court of competent jurisdiction, and all final determinations arising therefrom shall be res judicata . . . .

It is readily apparent that the changes contemplated by Secretarial Order 2969 were not intended to limit finality only to court decisions. Section 3 goes so far as to refer to decisions by the Land Title Officer and the Land Commission as becoming *res judicata*, which indicates the desire of the Secretary of the Interior to give such decisions the same legal status as a dispute resolved in court.

Accordingly, we find that the Airai Land Registration Team was correct in treating the District Land Title Officer's Dete rmination of Ownership as *res judicata* and adopting it as its own decision. That, perforce, leads to the conclusion that the Palau Land Commission was also legally correct in ratifying the decision ⊥624 of the Airai Land Registration Team when it issued Determination of Ownership Nos. 1256, 1257, 1258, 1259, 1260, and 1261. Thus the Trial Court was also correct in affirming the decision of the Palau Land Commission.

In view of the foregoing, Appellant's three other claims of error need not be discussed, since their resolution would not affect the outcome. We merely note in passing that the record is clear (Tr. 14-15) that Kaud was a party to the proceedings before the District Land Title Officer and that she did not appeal his decision.

Accordingly, our duty in this matter is clear. Given that the result below was correct in law and fact, the decision of the Trial Division in this matter must be and hereby is AFFIRMED.