

IN RE LAND KNOWN AS “KLTALNGAS”

Land Court Case No. LC/TR 15-0003

Land Court
Republic of Palau

Decided: November 9, 2015

Counsel for Petitioner Pro Se

Counsel for Respondents Pro Se

[1] **Courts:** Jurisdiction
Land Court: Jurisdiction

Determining competing claims to ownership versus determining who is or is not a member of a family, lineage, or clan for purposes of transferring ownership previously registered are two separate and distinct issues. The former issue is clearly within the purview of the Land Court while the latter is not.

FINAL ORDER

The Honorable C. QUAY POLLOI, Senior Judge:

Petitioner seeks to transfer ownership of the above-described land now registered as owned by the “Children of Kesiil” based on transfer documents duly executed by Cordino Soalablai and Toshie Ngirakesau. Respondents Christian Mobel, Karen Mobel, and William Mobel Jr. have objected to the transfer. Like other similar instances in the past, such objection halts the transfer process indefinitely because there is no rule that dictates what is to be done next by the Land Court. Petitioner has since filed a written response and also requests for a hearing. Petitioner’s position is that not everyone should have a right to file an objection to the transfer of land because the right to object should be limited only to members of the concerned family, lineage, or clan. In other words, Christian Mobel, Karen Mobel and William Mobel Jr. are not members of “Children of Kesiil” so they should not be entitled to object.

[1] The issue of who is and who is not a member of a family, clan or lineage is not a land ownership issue. It is a group membership issue. Meanwhile, the Land Court is a court of limited jurisdiction whose responsibility is to determine and register land ownership based on competing claims filed pursuant to the land registration program. *See* 35 PNC § 1304(a). Determining competing claims to ownership versus determining who is or is not a member of a family, lineage, or clan for purposes of transferring ownership previously registered are two separate and distinct issues. The former issue is clearly within the purview of the Land Court while the latter is not.

Additionally, if this Court overstepped its limited jurisdiction and then entered a ruling limiting objections to only members of a class, that ruling may irresponsibly preempt other members of the public from objecting when they should have the right to do so. For instance, a family may have authorized its member to put up family land as collateral for a loan. The bank that lent the money now has a security interest in that land. If there is a subsequent attempt by the family to transfer ownership of the land to another person or entity, the bank may well have a right to object to the ownership transfer unless its security interest was released by satisfaction of the loan or otherwise acknowledged by the new owner as a valid security interest against his ownership interest.

Given the foregoing reasoning, this Court orders as follows:

1. This Court declines to rule on the issue of whether the right to object should be limited to members of a certain class;
2. No hearing is warranted because there are no factual issues that could change the legal result as explained above; and
3. Petitioner may appeal this Final Order to the Appellate Division within 30 days otherwise he may, through counsel, file a proper petition in a court of general jurisdiction to resolve the legal issue that he has posed.