

Kuarteil v. Eungel, 3 ROP Intrm. 155 (1992)
**IN THE MATTER OF THE REPUBLIC OF PALAU
LAND COMMISSION DETERMINATION NO. 1994,**

**TECHUBEL CLAN, as represented
by ADOLPH KUARTEI,
Appellant.**

v.

**ELIBOSANG EUNGEL,
Appellee.**

CIVIL APPEAL NO. 5-88
Civil Action No. 24-88

Supreme Court, Appellate Division
Republic of Palau

Appellate opinion
Decided: August 3, 1992

Attorney for Appellant: Kaleb Udui

Attorney for Appellee: J. Roman Bedor

BEFORE: MAMORU NAKAMURA, Chief Justice; ARTHUR NGIRAKLSONG, Acting Chief Justice; LOREN A. SUTTON, Associate Justice¹

PER CURIAM:

On March 9, 1989 oral argument was heard by this Court on appeal from the National Court's dismissal of the appeal of a determination by the Palau Land Claims Hearing Office (LCHO). After reviewing the record and briefs submitted by the parties and after reviewing the authorities, the Court affirms.

¶156 On November 24, 1987 the LCHO issued Notice of Determination No. 130 which found Techubel Clan to be the owner in fee simple of Lot No. 001-N-01 located in Ngeruluobel, Airai State, Republic of Palau. Included in the Notice of Determination is the notation "Trustee by Elibosang Eungel". The parties do not dispute the ownership of the land in question. Rather, the issue on appeal is whether the notation of trustee is correct.

Issues of law which go to the heart of the validity of administrative proceedings on which the order is based, are open to inquiry by the Courts. *Rurcherudel v. Airai State*, 1 ROP Interim. 620 (1989); *NLRB v. Highland Park Manufacturing Co.*, S.Ct. 758, 761 (1951). The legal issue

¹ This matter was heard by all three members of the panel, but this Opinion is signed by a majority of two Justices due to the death of Chief Justice Nakamura in April 25, 1992.

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presented by this case is the extent of authority delegated to the LCHO. The Palau Lands Registration Act (13 PNC §§ 1101-1129) and the “Rules and Regulations of the Land Claims Hearing Office” promulgated and issued by the Supreme Court of the Republic of Palau (March 1988) constitute the body of that legislative delegation. 35 PNC § 1104 entitled “ Land Claims Hearing Office; powers; duties and responsibilities ” provides that the Hearing Office “shall proceed on a systematic basis to hold hearings and make determinations with respect to the ownership of all land within the Republic not yet registered . . .” *See also* , Section 2 of the Offices' Rules and Regulations. Nowhere in this body of law has the LCHO been delegated the adjudicatory power to determine who the chief of a particular clan is or who shall **L157** represent the clan for the purpose of establishing a “trustee” for that land. In that regard we agree with Appellant’s argument to the extent that any attempt by the Hearing Office to do so must be struck down for lack of jurisdiction.

While it is not within the discretionary or adjudicatory power of the LCHO to determine who the trustee shall be for any clan ownership, it does have the legislative power to create rules and regulations that fill in the details or supplement the statute under which it operates. In this regard the Court is referring to the Hearing Officer’s regular practice of noting the “trustee” or person with the traditional power to control land of the clan. This practice or rule serves the purpose of documenting who should be contacted regarding any further legal proceedings concerning the land of the clan. The purpose of noting a “contact person” on the ownership determination document is within the authority of the LCHO to proceed on a systematic basis to determine land ownership.

Since noting the “trustee” of the land is a regular practice or rule of the Hearing Office, the act of recording “Trustee by Elibosang Eungel” is a ministerial act of that office and not discretionary. A ministerial act is an act performed in a prescribed manner, in obedience to the law or the mandate of legal authority, without regard to or the exercise of the actor’s own judgment upon the propriety of the act done. *State v. Mantana Livestock Sanitary Board* , 339 P.2d **L158** 487, 490 (1959). A legal act based on the statute involving no discretion on the part of the Hearing Office cannot form the basis for complaint.

Therefore, because the organic statute and rules do not delegate adjudicatory power to the Palau Land Claims Office to determine land ownership “trustee”, and because the act of noting or recording the name of Elibosang Eungel as “trustee” for land of the Techubel Clan was merely a ministerial act, the judgment below is AFFIRMED.