

Teriong v. Rdechhor, 3 ROP Intrm. 191 (1992)
**IN THE MATTER OF THE APPEAL FROM
THE LAND CLAIMS HEARING OFFICE,**

**YUKIE UDUI TERIONG,
Appellant,**

v.

**SIANGELDEB RDECHOR,
Appellee.**

CIVIL APPEAL NO. 32-91
Civil Action No. 7-91

Supreme Court, Appellate Division
Republic of Palau

Appellate opinion
Decided: October 10, 1992

Counsel for Appellant: John K. Rechucher

Counsel for Appellee: Clara Kalscheur

BEFORE: ARTHUR NGIRAKLSONG, Acting Chief Justice; ROBERT A. HEFNER, Part-Time Associate Justice; ALEX R. MUNSON, Part-Time Associate Justice

PER CURIAM:

BACKGROUND

This appeal concerns a parcel of land which was originally part of Tochi Daicho Lot No. 937, is known as Arbitrary Lot No. 182-288 and is in Ikelau Hamlet, Koror, Palau.

On November 23, 1990, the Land Claims Hearing Office (LCHO) issued a Summary of Adjudication and Determination concluding that **L192** the Land is the individual property of Yukie Udui Teriong. Siangeldeb Rdechhor timely appealed the LCHO's Summary of Adjudication to the Trial Division of the Supreme Court on January 4, 1991.

Based upon the briefs submitted and the record, on September 23, 1991, the Trial Division Court issued its decision reversing the LCHO determination on several grounds and remanded the matter to the LCHO for issuance of a new title determination.

Appellant raises three issues on appeal, alleging that the lower court erred by:

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- 1) failing to reverse and remand to the LCHO issues regarding custom;
- 2) reversing findings of fact reached by the LCHO when such were not clearly erroneous; and
- 3) permitting the defense of the statute of limitations to be allegedly raised for the first time on appeal.¹

ANALYSIS

It is not necessary for this Court to determine appellant's first two grounds of appeal because our holding on the third is dispositive. In reversing the LCHO determination in favor of **¶193** Teriong, the lower court stated:

“The final straw is the Statute of Limitations, 14 PNC § 402(a), which bars actions to recover land unless such actions have been commenced within twenty years after the cause of action accrued. Having found that Appellant began his occupation of the land in 1953, the LCHO should have determined that Appellee had to claim the land by 1973 or be barred thereafter.” (Decision On Appeal, p.3)

We agree. The lower court correctly held that the factual determination of the LCHO that occupation began in 1953 compelled a conclusion that the claim was barred by the statute of limitations set forth in 14 PNC § 402(a)(2).

Appellant does not argue or dispute the merits of the application of the statute of limitations. Instead, he argues only that application of the statute is impermissible because it was raised sua sponte for the first time on appeal. This argument is without merit.

It is clear from the Transcript of Proceedings before the LCHO that Rdechor testified to the facts supporting his statute of limitations defense. (Transcript, pp. 10-11). Although he did not use the specific words “statute of limitations,” the only reasonable interpretation of his testimony is that no one ever opposed his claim to the land from 1953 until the LCHO proceeding, approximately thirty-seven years later. At a minimum, he raised the defense by implication. *In the Matter of the Estate of Kloulubak*, 1 ROP Intrm. 701, 705 (1989); *In the Matter of the Estate of Delemel*, Civil Appeal No. 8-89, (Appellate Order, August 18, 1989). The Summary of Adjudication and Determination issued by the LCHO on **¶194** November 23, 1990, is further support establishing that Rdechor raised the defense before the LCHO. At page 2 thereof, the LCHO recites in pertinent part that Rdechor claimed that “No person has ever

¹ Appellant raised an additional issue for the first time during oral argument. Appellant asserted that *Otiwii v. Iyebukel Hamlet*, Civil Appeal No. 28-91, September 14, 1992, which held that the Land Claims Hearing Office (LCHO) is a court of limited jurisdiction as opposed to an administrative agency, results in a constitutional requirement that appeals from the LCHO go directly to the appellate division of this Court to be heard by a three member panel and pass over a first stage appeal in the trial division. No support was offered for this unique argument and it was untimely raised. The issue is therefore not considered by the Court.

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attempted to remove him from or questioned his occupancy of the land.”

The decision of the trial division court is AFFIRMED.