

Llecholch v. Rengiil, 5 ROP Intrm. 53 (1995)
EMILIANO LLECHOLCH,
Appellant,

v.

ASAO RENGIL, a party by substitution
for Mad Tkedesau, deceased,

CIVIL APPEAL NO. 15-94
Civil Action No. 53-93

Supreme Court, Appellate Division
Republic of Palau

Opinion

Decided: January 18, 1995

Counsel for Appellant: J. Roman Bedor

Counsel for Appellee: Carlos H. Salii

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice,
PETER T. HOFFMAN, Associate Justice

MILLER, Justice:

Emiliano Llecholch appeals the trial court's affirmation of a Land Claims Hearing Office ("LCHO") determination of ownership awarding five lots in Melekeok State to the family of Mad Tkedesau, with Mad as trustee. The lots, Tochi Daicho Lots 2, 15, 65, 396-2, and 431, were designated for registration by the Palau District Land Commission in the mid-1970's, and claims were thereafter filed, but no further action was taken until the LCHO, to whom the claims were transferred, held a hearing and issued its determination in 1992.

Llecholch argues that due process requires he be named the owner of the lots. His theory is that 67 TTC § 108(1), the provision of the Trust Territory Code governing the settlement of land claims when the lots were designated, required the Palau District Land Commission to adjudicate claims to lots it had designated for registration within one year of such designation. See 67 TTC § 108(1) ("Each land registration team shall endeavor to adjudicate the claims to as much land within the area for which is it responsible as is practicable within a year after the area has been designated.") Llecholch argues that by implication section 108(1) limited the Land Commission's review to those claims filed within the one year time limit it established. Applying this theory to the present case, Llecholch argues that, since his father was allegedly the only person to file a claim before the Land Commission within one year after the lots were designated, the lots should have been awarded to his father by the Land Commission. Further, citing 35 PNC §1127, he argues that the LCHO was **154** obligated to do the same. See id.

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(providing that the "legal rights of the parties in any case or matter pending before the Palau District Land Commission and land registration teams . . . shall in no way be impaired" by the transfer of those cases to the LCHO).

We need not reach the merits of Llecholch's novel legal argument because the factual assertion underlying it, that his father was the only person to file a claim before the Land Commission, is unfounded. Our review of the Land Commission files reveals multiple claims for the lots at issue.¹ Thus, even if we were to adopt Llecholch's interpretations of 67 TTC § 108(1) and 35 PNC § 1127, he would still not prevail since, as one claimant among many, there would have been no reason to award him the lots after the expiration of the asserted one year adjudication period.

Llecholch's remaining due process argument is that he was unfairly prejudiced by the long delay in processing his father's claim because during the wait his father died, and with him went an irreplaceable store of knowledge. But by the time the LCHO held its hearing, Llecholch Ingais was not the only claimant who had died. Secharuleong Kitalong and Temol Mad had also died, and elderly claimants Joseph Blau and Mad Tkedesau (the prevailing party) appeared through representatives. Indeed, of the original claimants, only Melilt Rii and Johanes Ngirakesau were able to attend the hearing. Thus, while the long delay is deplorable, whatever prejudice Llecholch may have suffered as a result of the delay was not unique and is not, in and of itself, enough to mandate that he be awarded the lots. Given this, the trial court's conclusion is eminently reasonable: "A delay in determining ownership was experienced by all claimants to the property. Appellant has not shown why appellee, who did not cause the delay, should suffer a forfeiture to compensate appellant for the delay in processing his claim."

We AFFIRM.

¹ The file for Lot 396-2 contains only appellant's claim, filed in 1990. However, handwritten markings on four claims filed in 1978 for Lot 15, including that of appellant's father, indicate that those claims were understood to cover Lot 396-2 as well.