

*In re Olkeriil*, 5 ROP Intrm. 260 (1996)  
**IN RE: ESTATE OF JONAS OLKERIIL,**

**RAYMOND AKIWO,**  
**Appellant,**

**v.**

**LAURENTINO ULECHONG,**  
**Appellee.**

CIVIL APPEAL NO. 1-95  
Civil Action Nos. 232-89 & 428-90

Supreme Court, Appellate Division  
Republic of Palau

Opinion

Decided: September 10, 1996

Counsel for Appellant: Douglas F. Cushnie

Counsel for Appellee: Mariano W. Carlos

Before: JEFFREY L. BEATTIE, Associate Justice; LARRY W. MILLER, Associate Justice;  
JANET HEALY WEEKS, Part-time Associate Justice.

BEATTIE, Justice:

This is the second time this case has come before us. A detailed statement of the facts of the case is set forth in *Estate of Olkeriil*, 4 ROP Intrm. 43 (1993) (*Olkerii I*). In *Olkeriil I*, we remanded the case to the trial court for further proceedings. After further proceedings on remand, the trial court entered judgment for appellee, declaring him the owner of the subject property<sup>1</sup>. Appellant appealed. We affirm.

In *Olkeriil I*, we reviewed the trial court's summary judgment which held that appellee Laurentino Ulechong's deed to the property from Jonas Olkeriil, deceased, prevailed over Olkeriil's earlier deed to appellant Raymond Akiwo because Ulechong recorded his deed without notice of Akiwo's interest in the property, and Akiwo never recorded his deed.

**¶261** Akiwo's deed bore a notation on its face indicating that it had been recorded at Book 18, Page 44 on December 29, 1981. The trial court, however, took judicial notice that page 44 of that book was blank and therefore entered judgment in favor of Ulechong, whose deed was recorded in 1988. On appeal, Akiwo argued that the judicial notice did not establish that Akiwo failed to record his deed before Ulechong because it was possible that Akiwo's deed was

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<sup>1</sup> The property is a portion of Tochi Daicho lot 1000 in Meketii Hamlet, Koror.

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recorded in another book and/or another page. We agreed, reversed the judgment in favor of Ulechong, and remanded the case to the trial court with instructions that Akiwo would have sixty days to specify the book and page where his deed was recorded, failing which the trial court was to enter judgment for Ulechong.

On remand, Akiwo was unable to specify the book and page where his deed was recorded, and the trial court entered judgment for Ulechong. Akiwo then filed the instant appeal, now claiming that although no notation of his deed was entered in the recording books of the Clerk of Courts, his deed was still "duly recorded" because a copy of the deed was in a file cabinet in the Clerk's office.

In *Olkeriil I* we held that, to be "duly recorded" within the meaning of 39 PNC § 402<sup>2</sup>, some form of entry into the recording books kept by the Clerk of Courts is required. *Olkeriil I*, 4 ROP Intrm. at 46-47. Despite appellant's urging that an instrument presented to and retained by the Clerk of Courts should be considered "duly recorded", we see no reason to reconsider the holding of *Olkeriil I*.

It may seem harsh to deny a person the benefit of the recording laws where he has presented his deed to the Clerk for recording but the deed is for some reason not recorded in the recording books; however, for the proper functioning of the recording laws it is important that prospective purchasers be able to rely on the information in the recording books. Accordingly, a person who presents a deed for recording has the responsibility for seeing that it is properly recorded. The rationale for the rule is that a person who presents an instrument for recording "has it in his power to examine the records and satisfy himself that his paper has been duly and accurately recorded, while it is impossible for **1262** a prospective purchaser . . . to ascertain the innumerable forms which the . . . mistakes of the [recording] officer may assume." 66 Am. Jur. 2d *Records and Recording* § 132 at 421 (1973).

In view of our holding, we need not address the other issues raised on appeal. The trial court's judgment is AFFIRMED.

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<sup>2</sup> "No transfer of . . . title to real estate or any interest therein . . . shall be valid against any subsequent purchaser or mortgagee of the same real estate or interest, or any part thereof, in good faith for a valuable consideration without notice of such transfer or encumbrance, or against any person claiming under them, if the transfer to the subsequent purchaser or mortgagee is first duly recorded." 39 PNC § 402.