

Ngiratreked v. Ngerchau Lineage, 7 ROP Intrm. 119 (1998)
NGIRDIMAU NGIRATREKED, et al.,
Appellants,

v.

NGERCHAU LINEAGE,
represented by August Remoket,
Appellee.

CIVIL APPEAL NO. 66-97
Civil Action No. 511-96

Supreme Court, Appellate Division
Republic of Palau

Argued: September 25, 1998
Decided: October 8, 1998

Counsel for Appellants: J. Roman Bedor

Counsel for Appellee: Yukiwo, P. Dengokl

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; JEFFREY L. BEATTIE, Associate Justice; and LARRY W. MILLER, Associate Justice.

MILLER, Justice:

This is a dispute concerning a parcel of land known as *Ngerchau*, located in Iyebukel Hamlet, Ngarchelong State. In January 1983, the Palau District Land Commission issued a determination of ownership for the parcel to Ngiratreked Redechor. In May 1983, August Remoket and Iseko Takamine appealed the decision on behalf of Ngerchau Lineage. In November 1983, while the appeal was pending, Redechor executed a warranty deed conveying his interest in Ngerchau to his children, the appellants in this case. The deed was never recorded or presented to the court. In September 1985, Redechor, Remoket and **1120** Takamine entered into a stipulation providing, in essence, that the land should be considered property of Ngerchau Lineage. The stipulation was filed with and approved by the court, and in April 1995, the Land Claims Hearing Office issued a certificate of title to Ngerchau Lineage.

In November 1996, appellants filed this case. After a trial in November 1997, the Trial Division held that the 1995 certificate of title to Ngerchau Lineage prevailed over the 1983 warranty deed held by appellants. This appeal followed. We affirm.

Appellants make three arguments in an attempt to show that the Trial Division erred by finding appellee Ngerchau Lineage to have superior title to the land at issue. First, appellants contend that the 1985 stipulation giving *Ngerchau* to Ngerchau Lineage is invalid because

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Redechor had already conveyed his interest in the land to them in 1983 and had nothing left to grant to the Lineage. Second, they argue that they were not aware of the appeal of the 1983 determination of ownership and that any finding that they were bound by the 1985 stipulation deprives them of due process of law. Finally, appellants maintain that there is nothing in the 1985 stipulation that clearly and concisely conveys an interest in *Ngerchau* to the Lineage and that therefore the stipulation should be unenforceable.

Appellants' contention that Redechor had no interest left to convey to Ngerchau Lineage at the time of the 1985 stipulation is unpersuasive. In January 1983, Redechor received a determination of ownership to Ngerchau from the Land Commission. The determination was subject to appeal and was appealed in a timely fashion. Because the appeal was pending at the time Redechor gave the deed to appellants, he did not hold title to the property by reason of 35 PNC § 941 (a).¹ On appeal, the determination in his favor was reversed and it was held that appellee owned the property. We fail to see how the fact that the appellate decision stemmed from a stipulation for entry of judgment requires a different result than a decision rendered after full litigation. In either case, § 941(a) provides that a determination of ownership that is appealed does not immediately vest title. To accept appellants' argument would allow claimants who receive a determination of ownership to deed the land to their relatives before an appeal is completed and thereby avoid the results of the appeal altogether. Such a result is obviously untenable and we reject it here.

Appellants next assert that because they were never aware of the appeal, giving effect to the 1985 stipulation deprives them of due process of law. We disagree. Appellants' unfortunate situation arises not from the lack of any due notice from the court, but from the fact that their father apparently never told them of the Lineage's appeal. More important, appellants' father never notified the trial court entertaining the Lineage's appeal that he had deeded the land to his children. Moreover, as the Trial Division here noted, appellants could easily have acted to protect their own interests: "RECORDS of the Land **L121** Commission would have given them notice of the Lineage's pending appeal. They could have been substituted as the real parties in interest, and pressed any defenses they had to the Lineage's appeal." Trial Division Decision at 6. Appellants having failed to act, no notice was due to them, and the only party entitled to notice of the appeal and of the eventual stipulation - their father - undoubtedly received it.

Finally, appellants argue that the stipulation is so vague that it cannot be given the meaning the LCHO attributed to it in issuing the certificate of title to appellee, namely, that Redechor agreed that the land belonged to Ngerchau Lineage. It is not clear whether this argument was made to the trial court. In any event, although the stipulation is not a model of clarity,² it is sufficiently comprehensible to accomplish that result. Accordingly, the judgment of

¹ As the trial court here noted, 35 PNC § 941(a), then in effect, provided that a certificate of title should not be issued until "[after the time for appeal from a determination of ownership has been, filed without any notice of appeal having been filed, or after an appeal duly taken has been determined."

² The stipulation states that "APPELLANTS [Remoket and Takamine] shall have the Judgment against Appellee [Rdechor], who shall be adjudged for the ownership of all lands claimed by Appellants in the above-entitled action."

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the Trial Division is AFFIRMED.