

*Rebluud v. Palau Land Court*, 7 ROP Intrm. 249 (Tr. Div. 1998)

**RECHULD RAYMOND REBLUUD**

**Representing Ngerngas Clan,**

**Plaintiff,**

v.

**PALAU LAND COURT, Rep. by its Presiding Judge,  
TMEWANG RENGULBAI and MINEKO TORIBIONG,  
Defendants.**

CIVIL ACTION NO. 353-97

Supreme Court, Trial Division  
Republic of Palau

Issued: May 22, 1998

Counsel for Plaintiff: Johnson Toribiong

Counsel for Defendant: Rose Mary Skebong

BEFORE: R. BARRIE, MICHELSEN, Associate Justice.

#### INTRODUCTION

This case raises a direct challenge to the constitutionality of the Land Claims Reorganization Act of 1996: RPPL 4-43 [hereinafter, "the Act"]. Plaintiff argues that in the legislation creating the Land Court, the Olbiil ra Kelulau has removed jurisdiction that is constitutionally vested in the Trial Division of the Supreme Court. Furthermore, because the Act allows such cases to be heard by judges who do not meet the constitutional qualifications for Supreme Court judges, the statute also does not conform to constitutional requirements. Finally, Plaintiff argues that an additional constitutional infirmity is found in the provision for direct appeal without any Trial Division involvement.

As a preliminary matter, Defendant challenges whether Plaintiff may raise this issue at all. Defendant alleges Plaintiff failed to file a claim for the land at issue here within the time period required by law. Defendant therefore argues Plaintiff has waived any right to challenge the Land Court's findings. However, subject matter jurisdiction cannot be waived. *Andreas v. Masami*, 5 ROP Intrm. 205 (1996). Here, Plaintiff argues that the Land Court has no jurisdiction. Consequently, Plaintiff was not obligated to appear before the Land Court, or to file claims there to preserve this argument. It also bears noting that although the statute establishing the Land Court purports to give that Court jurisdiction to decide land claims, it is not clear that the Land Court has jurisdiction to decide constitutional challenges to statutes. Plaintiff is not obligated to appear in a court without jurisdiction. I conclude Plaintiff's actions or inactions in the Land Court do not preclude filing suit in this Court for a declaratory judgment concerning the

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constitutionality of the Act.

## ANALYSIS

A. Inferior Courts of Limited Jurisdiction are Expressly Authorized by the Palau Constitution. The Land Court is such an Inferior Court.

Section 1 of Article X of the Palau Constitution provides: “The judicial power of Palau shall be vested in a unified judiciary, consisting of a Supreme Court, a National Court, and such inferior courts of limited jurisdiction as may be established by law.”

The meaning of the expression “inferior courts” is a clear one.

This term may denote any court subordinate to the chief appellate tribunal in the particular judicial system (e.g. trial court); but it is also **1250** commonly used as the designation of a court of special, limited, or statutory jurisdiction, whose record must show the existence and attaching of jurisdiction in any given case, in order to give presumptive validity to its judgment.

*Black's Law Dictionary* (6th ed. 1990). In *Utiwii v. Iyebukel Hamlet*, 3 ROP Intrm. 159 (1992) the Land Claims Hearing Office was deemed an Article X § 1 “inferior court.” The same analysis demonstrates that the Land Court also fits within the definition. The Land Court is administratively placed within the judiciary, with the Chief Justice as administrative head. Judges are appointed by the President from the Nominators of the Judicial Nominating Commission. 4 PNC 301 as amended by RPPL § 20(a). It has the same basic but limited jurisdiction as the predecessor Land Claims Hearing Office. Its decisions are appealable within the Court system. Consequently, the Land Court is a properly designated “inferior court” within the meaning of Article X section 1.

B. The Creation of Inferior Courts Need Not Withdraw Jurisdiction from the Supreme Court.

Judicial power of Palau is vested by the Constitution, not by enabling statutes of the legislature. “[U]nlike United States District Courts, the Trial Division is a creation of the Constitution, not the national legislature. The inherent powers of the Trial Division are thus derived from the Constitution, not the national legislature.” *Dalton v. Heirs of Borja*, 5 ROP Intrm 95, 104 (1995). Because the court’s jurisdiction is vested by the Constitution, the Legislature may not, by statute, withdraw jurisdiction from the Court. However, since the Legislature may establish “inferior courts of limited jurisdiction” there must be some jurisdiction such courts may exercise.

Because “all matters affecting Ambassadors, other Public Ministers and Consuls, admiralty and maritime cases, and those matters in which the national government or state government is party” are within the original and exclusive jurisdiction of the Supreme Court<sup>1</sup>, such cases may not be delegated to inferior courts. *Yalap v. ROP*, 3 ROP Intrm 61 (1992).

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<sup>1</sup> Art. X, section 5, Palau Constitution

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*Koror State Public Land Authority v. Deberdii Lineage* 3 ROP Intrm 305 (1993). However, if the jurisdiction is not exclusively to be exercised by the Supreme Court, it must mean that other courts within the system are eligible to exercise nonexclusive jurisdiction. If it is conceded, as it must be, that the Supreme Court cannot by statute be divested of jurisdiction, then the jurisdiction of the inferior court (in this case, the Land Court) must be concurrent with the Supreme Court. The Land Court statute expressly provides for concurrent jurisdiction in section 208 of Title 4, as amended by the Act, and therefore avoids any constitutional problems on this score.

C. The Judges of Inferior Courts Need Not Meet The Qualifications of Supreme Courts Justices.

The qualifications of Supreme Court justices and National Court judges are established in Section 8 of Article X of the Palau Constitution. Section 8 is silent on the qualifications for judges of inferior courts. This silence is not inadvertence. Since the framers could not anticipate what inferior courts might be needed, the qualifications of such judges were not constitutionally mandated ahead of time. Qualifications of judges of inferior courts are properly a legislative decision in Palau's constitutional framework and Plaintiff's objection that the Act does not provide that Land Court judges have the same qualifications as Supreme Court judges is rejected. 1251

D. Appeals from Inferior Courts May Be Made Directly to the Appellate Division.

Lastly, Plaintiff objects to Section 12 of the Act, which provides for a direct appeal to the Appellate Division. In prior statutes for the Land Commission and the Land Claims Hearing Office appeals were in the first instance, to the Trial Division. Plaintiff argues that to be constitutional, any inferior court decisions must be reviewable *de novo* in the Trial Division.

The argument cannot be squared with the plain meaning of Section 6: "The appellate division of the Supreme Court shall have jurisdiction to review all decisions of the trial division and all decisions of lower courts." This language clearly suggests a direct appeal from inferior courts to the Appellate Division is contemplated, particularly since the Constitution does not expressly require any oversight of inferior courts by the Trial Division.

Summary judgment will therefore be entered in favor of Defendant.