

Adelbai v. Eleu Lineage, 8 ROP Intrm. 218 (2000)

**ESUROI ADELBAI,
Appellant,**

v.

**ELEU LINEAGE,
Appellee.**

CIVIL APPEAL NO. 99-28
D.O. Nos. 07-160 & 161

Supreme Court, Appellate Division
Republic of Palau

Decided: September 9, 2000

Counsel for Appellant: John K. Rechucher

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice;
R. BARRIE MICHELSEN, Associate Justice.

PER CURIAM:

Appellant appeals from the Land Court's August 12, 1999, Order denying her petition to re-open proceedings. For the reasons that follow, we dismiss the appeal.

Background

Appellant was born and raised in Palau, but moved to the United States in 1973, and has since returned to Palau for four visits. ¹ Upon her most recent visit in 1999, she learned that the Land Court had recently held hearings to determine the ownership of three parcels of land that Appellant believes belonged to her father and were to become hers upon her father's death. The Land Court had not yet issued an adjudication or determination of ownership. Appellant filed a petition to re-open the hearings and permit her to assert her claim, contending that she was unaware of the dates for monumentation, filing claims, and commencing hearings. The Land Court issued a Determination of Ownership in favor of Eleu Lineage, a party to the hearings. The Land Court then denied Appellant's petition to re-open the proceedings on the grounds that all notice requirements had been satisfied, so Appellant was not entitled to assert her untimely claim. Appellant brought this appeal.²

Analysis

¹ There are no factual records or factual findings in this case. This Court draws the relevant facts from the assertions in Appellant's brief, and assumes them to be true for the purposes of this analysis.

² Eleu Lineage, whom Appellant named as the Appellee, did not file a responsive brief.

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The Palau National Code provides that,

[a] determination of ownership by the Land Court shall be subject to appeal . . . directly to the Appellate Division of the Supreme Court in the manner provided by the Rules of Appellate Procedure.

35 PNC § 1312. Appellant, however, does not appeal from a determination of ownership, but rather appeals from an order denying a petition to re-open. The statutes do not provide for appeals from the Land Court directly to the Appellate Division from such orders, or from any orders other than determinations of ownership.

In *Uchel v. Deluus*, 8 ROP Intrm. 120 (2000), this Court dismissed an appeal from a Land Court order denying a petition for reconsideration of the issuance of a certificate of title. The *Uchel* Court reasoned that there was no statutory authority for appealing such orders directly to the Appellate Division, nothing to preclude the appellant from raising **¶219** the same issues at the trial level, and sound reasons for requiring the appellant to proceed at the trial level where a factual record could be developed. *See id.* at 121-22.

Likewise, in this case, there is no statutory authority for appealing denials of petitions to reopen directly to the Appellate Division. There is nothing to preclude Appellant from raising these issues in the Trial Division, which has previously considered claims of parties seeking to intervene in Land Court proceedings based on inadequate notice or other alleged procedural deficiencies. *See, e.g., Irrul v. Gerbing*, 8 ROP Intrm. 153, 153 (2000); *Uchellas v. Etpison*, 5 ROP Intrm. 86, 87 (1995). Finally, the record in this case contains no facts or factual findings regarding Appellant's claims. Thus, as we did in *Uchel*, we find it appropriate to require Appellant to proceed at the trial level where an adequate factual record can be developed.

Conclusion

For the foregoing reasons, the instant appeal is DISMISSED.