

*Uchel v. Deluus*, 8 ROP Intrm. 120 (2000)  
**KLOULUBAK RDANG UCHEL,**  
**Appellant,**

v.

**FRANZ DELUUS,**  
**Appellee.**

CIVIL APPEAL NO. 98-62  
Certificate of Title No. LC-80-98

Supreme Court, Appellate Division  
Republic of Palau

Decided: February 11, 2000

Counsel for Appellants: David. J. Kirschenheiter

Counsel for Appellee: Pro se

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; JEFFREY L. BEATTIE, Associate Justice; R. BARRIE MICHELSEN, Associate Justice.

PER CURIAM:

Before the Court is Appellant's response to the Court's Order to Show Cause why this appeal should not be dismissed. For the reasons stated herein, we dismiss the appeal.

In 1996 the Land Court issued a certificate of title in the name of Tonget lineage with Appellant and Appellee as trustees. In 1998, based on documents purporting to transfer title from the lineage to Appellee, the Land Court issued a new certificate in Appellee's name, pursuant to procedures prescribed in 35 PNC section 1315. Appellant filed a petition for reconsideration of the new certificate, ¶121 contending that the lineage had not authorized or been notified of the purported transfer. The Land Court denied the petition, and Appellant appealed directly to this Court. Noting that 35 PNC section 1312 permits appeals directly to the Appellate Division from Land Court determinations of ownership, but not from other Land Court orders or decisions, this Court ordered Appellant to brief the legal basis for appealing directly to this Court.

Appellant does not cite any statutes or cases authorizing appeals directly to the Appellate Division from Land Court orders or decisions other than determinations of ownership. <sup>1</sup> Rather,

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<sup>1</sup> Appellant argues that the Land Court is a "lower court" within the meaning of Article X, Section 6 of the Constitution which permits this Court to review "all decisions of lower courts." However, this broad grant of appellate jurisdiction does not preclude procedural rules requiring intermediate review at the trial level.

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he argues that he brought the appeal in this Court out of concern that the Trial Division would consider him bound by the new certificate of title, which he did not appeal, and would accordingly refuse to review it.

However, both this Court and the Trial Division have permitted collateral attacks on certificates of title where, as here, the certificates were issued without a hearing or determination of ownership, based solely on documents purporting to transfer title. *See, e.g., Emaudiong v. Arbedul*, 5 ROP Intrm. 31, 35 (1994) (permitting claim contesting certificate of title to proceed at trial level where certificate was issued “without a hearing and without a determination of ownership that could have been appealed”); *Obak v. Bandarii*, 7 ROP Intrm. 254 (Tr. Div. 1998) (considering claim that certificates of title issued without hearing or determination of ownership were invalid because they were based on unauthorized transfers of title). Thus, in this case where the certificate of title was similarly issued without a hearing or determination of ownership that could have been appealed, the validity of the certificates is fully reviewable at the trial level.<sup>2</sup>

Moreover, we find sound reasons for requiring Appellant to proceed at the trial level. Contrary to Appellant’s suggestion that intermediate review proceedings merely cause inefficiency and delay, these trial-level proceedings permit inquiry into critical factual issues, such as the purported transferors’ authority to act on behalf of the lineage in this case, that are best developed at the trial level. *Compare, e.g., Emaudiong*, 5 ROP Intrm. at 33 (describing factual dispute as to which strong senior members were authorized to bind the Clan; *Obak*, 7 ROP Intrm. at 254 (finding genuine issue of material fact as to who was authorized to transfer jointly owned property).

Appellant’s claim challenging the validity of a certificate of title issued without 1122 a hearing or determination of ownership can and should be litigated at the trial level. We therefore hold that the issuance of such a certificate is not appealable directly to the Appellate Division and must be challenged in the Trial Division.

The instant appeal is hereby DISMISSED.

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<sup>2</sup> Contrary to Appellant’s suggestion, *Emaudiong* did not permit collateral review only because the plaintiff was a tenant rather than a claimed owner and thus was not as clearly bound by the certificate of title. Rather, *Emaudiong* permitted collateral review because the certificate was “issued without a hearing and without a determination of ownership that could have been appealed.” *See* 5 ROP Intrm. at 35. In *Obak*, moreover, the party challenging the certificates of title was in fact claiming ownership. *See* 7 ROP Intrm. at 254. Thus, we find no material basis for distinguishing this case from *Emaudiong* and *Obak*.