

Ngerketiit Lineage v. Tmetuchl, 8 ROP Intrm. 122 (2000)

**NGERKETIIT LINEAGE,
Appellant,**

v.

**ROMAN TMETUCHL,
Appellee.**

CIVIL APPEAL NO. 99-05

Supreme Court, Appellate Division
Republic of Palau

Argued: February 9, 2000

Decided: March 2, 2000

Counsel for Appellant: Douglas F. Cushnie

Counsel for Appellee: William L. Ridpath

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

PER CURIAM:

This is yet one more suit in a continuing series regarding the ownership of a parcel of land identified as Cadastral Lot No. 14 B 03. Faced with an adverse ruling from the Appellate Division, Ngerketiit Lineage (Ngerketiit) refiled the case in the Trial Division requesting that the trial court declare the Appellate Division's previous decision, *Tmetuchl v. Ngerketiit Lineage*, 7 ROP Intrm. 91 (1998) (*Tmetuchl*), void for lack of jurisdiction. We affirm the Trial Division's order dismissing the action.¹

¶123 The history of the litigation involving this land is recounted in *Tmetuchl*, and we need not repeat it here. That case held that Tmetuchl was the owner of Cadastral Lot Number 14 B 03. Ngerketiit brought this action shortly after that decision, making three arguments in support of its claim that it owned the land, despite the outcome of the previous action. We review the Trial Division's dismissal of a complaint de novo. *Wolff v. Sugiyama*, 5 ROP Intrm. 105, 107 (1995).

¹ The Trial Division granted Tmetuchl's motion for sanctions. Ngerketiit did not appeal that portion of the Trial Division's order.

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Scope of Kloteraol v. Ulengchong

Ngerketiit's first argument was that in *Kloteraol v. Ulengchong*, 2 ROP Intrm. 145 (1990), this Court affirmed the 1958 determination of the Palau Land Title Officer awarding the Lineage ownership of numerous parcels, including 14 B 03, over the Land Commission's adverse determination in 1987. This is incorrect. We have specifically held that *Kloteraol* reversed the Land Commission's adverse decision to only one lot, Lot No. 1870. See *Ngerketiit Lineage v. Ngerukebid Clan*, 7 ROP Intrm. 38, 42 (1998). This argument was rejected again in *Tmetuchl*, see 7 ROP Intrm. at 93, and the Trial Court correctly found that the doctrine of res judicata precluded Ngerketiit from relitigating it. This argument clearly lacked a legal basis for relief.

Rationale for Tmetuchl

Ngerketiit next argued that because Tmetuchl had challenged the Trial Division's findings about a transfer of the land but had not challenged the Land Commission's determination, this Court had exceeded its jurisdiction in deciding the appeal on the basis of the Land Commission's determination. This argument was specifically addressed in *Tmetuchl*:

At oral argument [Ngerketiit] suggested that appellants' argument concerning the conclusiveness of Determination of Ownership No. 1869 was not raised in the court below. Our review shows that it was raised in the answer to the amended complaint as well as in the brief in opposition to the motion for partial summary judgment. It was also raised in appellants' brief on appeal.

7 ROP Intrm. at 92 n.3. Hence, this argument could not be a basis for relief in this later case.

Lack of notice

Ngerketiit's last argument is that *Tmetuchl* is void because it was based on the Land Commission decision which in turn was also void because of due process violations, specifically, that there was no notice of Tmetuchl's claim to the lot. This claim was not raised in the previous action, but could have, and should have, been raised there. We have stated that "parties to litigation are obligated to make all of their arguments, and raise all of their objections, in one proceeding." *Ngerketiit Lineage v. Ngerukebid Clan*, 7 ROP Intrm. at 43. Because Ngerketiit could have raised their due process claim in the last action, but did not, they are barred from raising it in a subsequent action. This argument, like the others, did not provide a basis for relief.

¶124 Because the complaint did not state a factual or legal basis for relief, it was without merit, and the Trial Division did not err in dismissing the complaint.