

*Ngirameong v. Ngiraibai*, 8 ROP Intrm. 331 (Tr. Div. 1999)  
**XAVIER NGIRAMEONG and STEPHALIZA NGIRAMEONG,**  
**Plaintiffs,**

v.

**FLORIANO NGIRAIBAI,**  
**Defendant.**

**IBUL NGIRAIBAI, OTONG IYAR, and OBODEI S. IYAR,**  
**Intervenors.**

CIVIL ACTION NO. 423-95

Supreme Court, Trial Division  
Republic of Palau

Decided: September 2, 1999

BEFORE: JEFFREY L. BEATTIE, Associate Justice.

This action was filed by plaintiffs to evict defendant Floriano Ngiraibai from land in Idid Hamlet, Koror, known as Cadastral lot 43 B 16. Plaintiffs claimed that they owned the land as evidenced by a Certificate of Title dated May 18, 1993. Floriano was occupying the land under a use right from Ibul Ngiraibai, Otong Iyar, and Obodei Iyar, who are the children of Mengior. On May 22, 1991, the LCHO had issued a Determination of Ownership finding that the Children of Mengior, with Ibul as trustee were the owners of the property. <sup>1</sup> The Children of Mengior intervened in this case, claiming that they were the owners of the property, not the plaintiffs.

Floriano died shortly before trial, and it is not disputed that his use right expired upon his death. Thus, the matter went to trial on the competing claims of ownership between plaintiffs and intervenors.

Plaintiffs have a deed in which Damiana Iyar purports to convey the property to them. Damiana is the niece of Ibul. Damiana owed plaintiff Stephaliza Ngirameong \$4,000, and Damiana told her that her aunt was trustee of some land and that she would give her the land in order to discharge the debt.

On or about October 23, 1991, Damiana and plaintiffs signed a Deed of Sale under the terms of which Damiana sold and quit-claimed the subject property to plaintiffs. Damiana and Stephaliza went to Ibul's house in Ngiwal with the Deed of Sale. Damiana talked to her while Stephaliza was in another part of the house, engaged in conversation with others and not listening to Damiana's conversation.

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<sup>1</sup> The Determination of Ownership covered a 1123 square meter parcel. The subject property, consisting of 181 square meters, is included in the larger parcel.

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Ibul, who cannot read the English language, was told by Damiana that she wanted to borrow some money and needed Ibul to sign a document to assist her. Damiana then gave Ibul the Deed of Sale, which Ibul signed as a witness. Stephaliza testified that, when Ibul and Damiana were finished talking, Ibul thanked Stephaliza for helping Damiana. This lends credibility to Ibul's testimony that she believed the transaction involved a loan to Damiana rather than a sale of land.

Plaintiffs concede that the Deed of Sale was insufficient to convey the property to them. However, after they presented the deed to the LCHO, the LCHO issued a Certificate of Title to them. They argue that, under 35 PNC § 1114, their Certificate of Title is prima facie evidence of ownership and conclusive upon the intervenors.

**1332** It is clear that the LCHO did not issue plaintiff's Certificate of Title pursuant to 35 PNC § 1114. It was issued pursuant to 35 PNC § 1116. Section 1114 deals with Certificates of title issued pursuant to a determination of ownership and commands the LCHO to "issue a Certificate of Title setting forth the names of all persons or groups of persons holding interest in the land pursuant to the determination . . . ." (emphasis supplied).

Here, the determination of ownership did not list plaintiffs but rather the Children of Mengior, who are the intervenors. Although the form filled out by the LCHO for plaintiff's Certificate of Title states that it was issued pursuant to the determination of ownership dated May 22, 1991, that is plainly not the case.

Thus, plaintiff's Certificate of Title was issued under 35 PNC § 1116, which deals with transfers of land. Indeed, plaintiffs claim to own the land as the result of a transfer, not as a result of a determination in their favor. Thus, the plaintiff's Certificate of Title is not conclusive against intervenors. *Emaudiong v. Arbedul*, 5 ROP Intrm. 31, 35 (1994).

Plaintiffs claim that intervenors are barred from claiming the land due to laches but have not presented evidence that they were prejudiced by plaintiff's alleged delay in asserting their right to the land. In any event, laches is not available where a claim is made within the time authorized by the statute of limitations. *Ngirausui v. Baiei*, 4 ROP Intrm. 140, 141 (1994).

For reasons not apparent from the evidence, plaintiffs did not name Damiana as a defendant or assert any claim against her. From the evidence presented, it appears that she is the person to whom plaintiffs should look to for redress, as she apparently deceived plaintiffs as well as Ibul.

Accordingly, judgment will be entered for intervenors.