

Bruno v. Santos, 9 ROP 41 (2001)
ELISIA BRUNO,
Appellant,

v.

BENJAMIN SANTOS,
Appellee.

CIVIL APPEAL NO. 00-23
D.O. No. 12-221

Supreme Court, Appellate Division
Republic of Palau

Argued: November 15, 2001
Decided: December 5, 2001

[1] **Constitutional Law:** Due Process

No violation of due process occurs where parties agree to a course of action and the Land Court implements that agreement.

Counsel for Appellant: Oldiais Ngiraikelau

Counsel for Appellee: Yosiharu Ueda, T.C.

BEFORE: LARRY W. MILLER, Associate Justice; R. BARRIE MICHELSEN, Associate Justice; KATHLEEN M. SALII, Associate Justice.

MILLER, Justice:

This case concerns the disputed boundary lines separating the land of Elisia Bruno from land owned by Benjamin Santos. The Land Claims Hearing Office (“LCHO”) awarded Bruno a portion of land owned by Santos, but did not decide the boundary lines between the two plots. Bruno and Santos’s joint attempt to delineate the properties was unsuccessful, and so Bruno and Santos agreed to have the Land Court decide the boundaries. The Land Court did so, and Bruno now appeals that determination. We affirm.

In June 1995, the LCHO determined that Santos owned in fee simple all of the lot known as K-234, “except the area upon which Elisia Bruno’s residence is located, including its immediate premises which have been under Bruno’s control” Additionally, the LCHO requested that the Director of Lands and Surveys “conduct a monumentation and survey jointly with LCHO, Santos and Bruno . . . to delineate Bruno’s property separate from the rest of Lot K-234.” After Santos unsuccessfully appealed this decision, *see Santos v. Bruno*, Civ. Act. No. 297-95 (Tr. Div. Dec. 26, 1996), a monumentation of Bruno’s land, which Bruno attended,

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was held. On September 26, 1997, a monumentation record and survey of the land was completed. Bruno and Santos nonetheless continued to disagree about the boundaries of Bruno's land, specifically, what constituted the "immediate premises" of Bruno's residence as specified in the LCHO's 1995 determination.

In hopes of solving their dispute, Bruno and Santos sent a letter on May 22, 1998, to the Land Court indicating their agreement, "as indicated by their signatures at the end of [the] letter" that the Land Court follow specific steps and then decide the boundary. First, Bruno and Santos requested that the Land Court:

- (i) review the Adjudication and Determination; (ii) consult the Land Claim Hearing Officers who heard the claim . . . and issued the Determination . . . ;
- (iii) review the Claim Monumentation Record . . . prepared . . . on September 26, 1997 . . . ; and (iv) go view **L42** Lot K-234 and decide where the boundary markers should be placed and prepare a sketch of the portion of Lot K-234 delineating Elisia Bruno's property.

The parties next asked the Land Court to:

immediately set a time for meeting at the site of Lot K-234 and notify the Director of the Bureau of Lands and Surveys, Benjamin Santos, Elisia Bruno and their respective counsel. Once we are all at the site of Lot K-234, you will place the boundary markers delineating Elisia Bruno's property from Lot K-234 and the Bureau of Lands and Survey will survey Elisia Bruno's property for registration.

On February 25, 1999, the Land Court composed a memorandum for the record indicating that "[b]y agreement and request of the parties," it had reviewed the LCHO's 1995 decision; consulted with two members of the three-member LCHO panel which rendered the 1995 decision; reviewed the September 26, 1997 monumentation records; and, "[v]iewed Lot K-234 after noticing counsel for the parties." The Land Court then described the markers which should delineate Bruno's property from Lot K-234.

In a March 31, 1999 letter, Bruno through her attorney expressed her objection to the Land Court's delineation of her land by stating merely that "Mrs. Elisia Bruno does not agree with [the Land Court's] interpretation . . . of the July 5, 1995 LCHO Adjudication and Determination." Bruno, however, did not supplement her objection or file anything further with the Land Court. Over a year after Bruno's objection, Santos requested that the Land Court enter an order designating the boundaries of Bruno's property and Lot K-234 in accordance with the court's February 25, 1999 memorandum to the record. The Land Court granted Santos's request on May 12, 2000, noting that although Bruno expressed her disagreement with the court's interpretation of the boundaries, "[m]ore than one year has passed since [this objection], but no other action has been taken." Subsequently, Bruno timely filed this appeal.

[1] On appeal, Bruno primarily contends that the Land Court failed to carry out the parties'

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May 22, 1998 agreement and violated due process¹ by not giving her notice and a chance to present evidence before the court definitively clarified the boundaries between her land and Lot K-234. Her arguments, however, are belied by the record in the Land Court. There is no dispute that the Land Court carried out the four steps identified in the first paragraph of their agreement, *see* p. 41-42 *supra*,² and the plain language of the second paragraph called on the court simply **L43** to “place the boundary markers delineating Elisia Bruno’s property from Lot K-234”³ The agreement neither requested nor anticipated that the Land Court would hold a hearing regarding the disputed boundaries. Bruno signed that agreement and, in any event, participated in a full hearing before the LCHO, and thus we do not see any violation of her right to due process.

Bruno also argues that the Land Court erroneously disregarded the LCHO’s initial determination of the boundaries by relying on the “long-existing concrete flooring” rather than the “trees and plants.” But she has not adequately explained to either us or the Land Court how the boundaries are erroneous, nor has she demonstrated that the Land Court, which consulted with two members of the original LCHO panel, diverged from the LCHO determination. Read in context, the Land Court’s reliance on the “long-existing concrete flooring” was a ruling against Santos’s proposed monumentation to Bruno’s advantage.

Accordingly, we affirm the Land Court’s final decision.

¹Bruno also states that the Land Court denied her equal protection rights, but she does not explain how those rights were violated. We therefore believe that she meant to include her equal protection claim as part of her due process claim.

²We are troubled by Bruno’s proposition that an agreement signed by the parties – but not formally assented to by the court – would compel the Land Court to follow certain procedures before resolving a land dispute. Yet because the Land Court followed the agreed-upon procedures in this case irrespective of the court’s questionable duty to do so, we need not address the issue.

³Although it appears that the Land Court never physically pointed out the boundaries to the parties, in the court’s decision it quite clearly describes which markers the Bureau of Land and Surveys should use in completing its final survey.