

*Ngetpak Clan v. Keptot*, 9 ROP 99 (2002)  
**NGETPAK CLAN,**  
**Petitioner,**

v.

**FRANCISCO KEPTOT, LAND COURT, DMIU CLAN, SECHEDUI CLAN, EBERT  
MABEL, MISAKO KIKUO,  
MOKOKIL REBES,  
and RIMIRCH REKEMEL,**  
**Respondents.**

SPECIAL PROCEEDING NO. 02-01

Supreme Court, Appellate Division  
Republic of Palau

Decided: April 25, 2002

[1] **Appeal and Error:** Prohibition, Writ of

A writ of prohibition will not issue to prohibit a court from acting in the proper exercise of its powers and within its jurisdiction, nor will it issue to review and correct errors and irregularities of a lower court, or where there is another legally adequate remedy.

[2] **Appeal and Error:** Prohibition; Writ of

Issuance of a writ of prohibition is appropriate only in cases of extreme necessity and only when the lower court is about to exercise judicial or quasi-judicial power in a matter unauthorized by law and that such exercise will result in injury for which there is no other adequate remedy.

[3] **Land Commission/LCHO/Land Court:** Jurisdiction

35 PNC § 1309(b) imposes no jurisdictional limitation on the Land Court but merely requires that, in appropriate circumstances, preclusive effect be given to prior determinations.

Counsel for Petitioner: J. Roman Bedor, T.C.

Counsel for Keptot and Land Court: Rose Mary Skebong

Counsel for Dmiu Clan: Ernestine Rengiil

Counsel for Sechedui Lineage and Kikuo: John Rechucher

Counsel for Mabel, Reties, and Rekemel: Pro Se

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

PER CURIAM:

[1, 2] Petitioner seeks a writ of prohibition to preclude the Land Court from conducting any further proceedings concerning a parcel of land in Peleliu commonly known as Ngetpak and more formally as Homestead Lot No. 159 (hereinafter “HS 159”). As this Court has previously explained, “[a] writ of prohibition will not issue to prohibit a court from acting in the proper exercise of its powers and within its jurisdiction. It will not issue to review and correct errors and irregularities of a lower court, or where there is another legally adequate remedy.” *ROP v. Asanuma*, 3 ROP Intrm. 48, 51 (1991). Rather, issuance of the writ is appropriate

only in cases of extreme necessity, and only when each of the following elements have been clearly established:

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- 1) That the lower court is about to exercise judicial or quasi judicial power;
- 2) That the exercise of such power is unauthorized by law; and
- 3) That the exercise of such power will result in injury for which there is no other adequate remedy.

*Id.* (citing 63 Am. Jur. 2d *Prohibition* § 6).

Petitioner attempts to meet this burden by invoking 35 PNC § 1309(b).<sup>1</sup> Petitioner contends that since the Land Court entered a determination of ownership concerning HS 159 in petitioner’s favor on September 12, 2000, 35 PNC § 1309(b) divests the Land Court of jurisdiction to hear the presently-pending claims involving that parcel. We disagree.

[3] Although this Court has not previously interpreted the meaning of this language in § 1309(b), it has passed on identical language in predecessor statutes. *See, e.g., Secharmidal v. Techemding Clan*, 6 ROP Intrm. 245, 247-48 (1997) (discussing 67 TTC § 112); *Ngatpang State v. Amboi*, 7 ROP Intrm. 12, 15 (1998) (discussing 35 PNC § 1110(c)); *Ngerketiit Lineage v. Ngerukebid Clan*, 7 ROP Intrm. 38, 40-41 (discussing 35 PNC § 930(b)). In each case, the Court has found that language like that contained in 35 PNC § 1309(b) imposes no jurisdictional limitation. Rather, such language merely requires that, in appropriate circumstances, preclusive effect be given to the prior determination. *See, e.g., Ngerketiit Lineage v. Ngerukebid Clan*, 7 ROP Intrm. at 40 n.2.

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<sup>1</sup>In relevant part, that statute provides that

the Land Court shall not hear claims or disputes as to right or title to land between parties . . . where such claim or dispute was finally determined by the Land Claims Hearing Office, the former Land Commission, or a court of competent jurisdiction. The Land Court shall . . . accept such determinations as binding on such parties . . . without further evidence than the judgment or determination of ownership.

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The issue in this case is that the Determination of Ownership for HS 159 was issued without benefit of a monumentation to ascertain the parcel's boundaries. Consequently, during the course of the Land Court's efforts to adjudicate the ownership status of adjoining parcels, questions have been raised as to whether any of those claims encroach onto HS 159. To the extent that it is determined that they do, Petitioner is free to invoke § 1309(b) in the proceedings presently pending before the Land Court concerning HS 159, and may appeal from any determination adverse to it. But petitioner's jurisdictional argument fails, and issuance of the writ petitioner seeks is therefore unwarranted.

**CONCLUSION**

For the foregoing reasons, Petitioner's petition for a writ of prohibition is DENIED.