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IN THE SUPERIOR COURT  
OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Civil Action 90-244

FROILAN S. CAMACHO,

Plaintiff,

vs.

MARIANAS PUBLIC LAND  
CORPORATION,

Defendant.

Decision and Order

This case is an action to quiet title brought by Mr. Froilan S. Camacho ("Plaintiff") against the Marianas Public Land Corporation ("MPLC"). The land in dispute is a parcel approximately one hectare in size, located in the I Denne region of Saipan. Plaintiff claims he inherited the disputed parcel from his father. MPLC asserts that it is public land.

MPLC does not dispute that Plaintiff is the rightful owner of Lot No. 374, in I Denne. It does, however, dispute the size and boundaries of the land in which Plaintiff seeks to quiet title. Plaintiff claims that his lot is over 3.4 hectares in size, while MPLC asserts that it is roughly 2.4 hectares. The disputed portion is located in a long, roughly triangular strip of land along the northern part of Plaintiff's property.

At trial, Plaintiff introduced various documents in support of his claim. First, he offered several Trust Territory documents from the period of 1944-1951 showing that his father, Luis T. Camacho, was either the lessee or the homestead owner of a piece of land in I Denne called "Lot 374." These documents describe Lot 374 as containing an area of "3 cho, 3 tan, 3 se, and 10 bu" in Japanese measurements (between 3.3 and 3.4 hectares). Second, he offered a Determination of Ownership that was issued by the Office of High Commissioner of the Trust Territory on June 15, 1951. Appendix "A" of this document identified the property as Lot No. 374, stated that it was located in I Denne, stated that Luis T. Camacho was the owner, and that the lot covered an area of "355,405 square feet" (about 3.4 hectares). Third, he introduced a 1979 survey plat, done by the CNMI Division of Lands and Surveys. This plat contains a parcel labeled "Lot 374 NEW" in I Denne, with an area of about 3.4 hectares. The plat indicates that the land belongs to "Luis T. Camacho (deceased)". This plat is signed or initialed by various CNMI government officials, including the Chief of Lands and Surveys and the Senior Land Commissioner. Finally, Mr. Camacho offered his own testimony regarding his family's relationship with the I Denne property.

MPLC also provided documentary evidence in support of its claim to the land. First, it offered a map from the late Japanese or early Trust Territory days. This map is labeled "Land Claims Map #6." It also contains a lot labeled "Lot 374" that is located in I Denne. This lot, however, is of an indeterminate size and is

shaped somewhat differently than the parcel labeled "Lot 374 NEW" in the 1979 survey plat Plaintiff offered at trial. MPLC also offered another map, referred to at trial as the "Asia Mapping map." This map was done in 1976 based on aerial photographs and surveys done by Asia Mapping, Inc. ("The Asia Mapping survey"). The Plaintiff argues that, depending on the interpretation and meaning one attaches to the hash marks on this map, it could either support or defeat his claim. MPLC, on the other hand, argued that this map clearly shows that Lot 374 only contained 2.4 hectares, with a shape similar to that shown on Land Claims Map #6.

The History of the I Denne Lot

Plaintiff introduced testimony at trial indicating that his father, Luis T. Camacho, first took possession of the I Denne land in approximately 1915. Luis T. Camacho began farming the land, and continued to do so almost without a break for the next sixty-five years.<sup>1</sup>

During the 1920s and 1930s, the I Denne area was parcelled out to Japanese and Okinawan families. At this time, boundaries between lots were marked, not by fences or monuments, but by rows of coconut or mango trees.

Because of the intense bombing and shelling during the battle of Saipan in the summer of 1944, all of the boundary-marking trees

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<sup>1</sup> The Luis T. Camacho family did not live on the I Denne land. In fact, no one lived on the land permanently until Froilan S. Camacho built his present house there in 1979-80.

were destroyed. During the war, Luis T. Camacho's family was interned in the Susupe camp. Therefore, they were unable to continue farming the land. After being released from the camp, the Camacho's were still unable to use the I Denne land for farming purposes because the occupation forces were still using it for military purposes. Plaintiff testified that his father did not return to the land until 1946 or 1947. Prior to his return, the Okinawan and Japanese homesteaders departed, and a large military barracks was constructed on part of the property.

The barracks were eventually removed sometime in the late 1940s. At this time, the Camacho family returned to farming their land. In 1951, the Trust Territory government issued a Determination of Ownership stating that Luis T. Camacho was the owner of Lot 374 in I Denne, with an area of 355,405 square feet, "as shown on Land and Claims Map #6."<sup>2</sup>

In 1955, Froilan S. Camacho began to farm the I Denne land along with his father. It is undisputed that Froilan S. Camacho has farmed the land continuously since that time.

Throughout the 1950s and 1960s, homesteaders moved into the I Denne area around the Camacho land. Each homestead was surveyed out, but no overall survey of the entire area was done until the

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<sup>2</sup> The size of the lot as described in the Determination of Ownership did not precisely match the Japanese survey of 3 cho, 3 tan, 3 se and 10 bu. The lot sizes mentioned in both sources of evidence are, however, within one-percent of each other.

1970s. Evidence was introduced showing that some of these surveys may have been inaccurate.<sup>3</sup>

Plaintiff testified that in the mid-1970s he personally saw the Asia Mapping surveyors in the I Denne area. He claims, however, that they never spoke with him or any of his neighbors.

In 1976, Mr. Camacho was contacted by a Mr. Guerrero, who worked with the Division of Lands and Surveys. Mr. Guerrero told him that the Asia Mapping survey revealed that the Camacho land was one hectare smaller than the description given in the 1951 Determination of Ownership (approximately 2.4 hectares instead of 3.4).

At this time, Mr. Camacho approached the Land Management Office ("LMO") of the Trust Territory Government to question the results of the survey.

#### Actions of the Land Management Office

The LMO was the predecessor in interest to MPLC. Like MPLC, it had authority over all public lands in the Northern Marianas Islands. Like MPLC, it had the power to administer and control public lands. Unlike MPLC, LMO was not bound by any constitutional restrictions on transfers of public land.

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<sup>3</sup> For example, Plaintiff noted at trial that Lot #376, which is immediately adjacent to the Camacho property grew by roughly 11,000 square feet, or just over 1,000 square meters between the time a Determination of Ownership was granted and the time it was surveyed.

Mr. Ponciano Rasa was the director of LMO at the time of the survey in question. He testified that the Asia Mapping surveys were frequently very inaccurate. "Short surveys", showing a piece of land as being much smaller than the amount given by its Determination of Ownership or Certificate of Title, were one common problem. He said that Mr. Camacho's land was an example of this problem.

According to Mr. Rasa, LMO had a well-developed policy towards short surveys. They would have the case researched, and would arrive at an administrative determination as to whether there was indeed a problem. If there was a problem, they would resurvey the land. If necessary, they would "bulk out" the short survey by including adjacent pieces of public land (or of land that had been surveyed out as public land) in the new survey. If the parcels surrounding a short survey were all private lands, LMO would give the landowner a non-adjacent piece of public land rather than start a dispute over boundaries.

LMO determined that the Camacho family's I Denne land had been short-surveyed. Therefore, LMO set the procedure in motion for a new survey of the Camacho property. This survey was done in February, 1979, by the CNMI Division of Lands and Surveys. Mr. Rasa testified that he remembered the Camacho land's short-survey because it was "fairly important", although it was by no means the largest or worst case of its kind.

Mr. Rasa testified that the actions of LMO with regard to public lands were always approved by the Trust Territory Resident Commissioner "as a matter of form." Once the survey had been done, the Resident Commissioner would give his approval, and the survey would then become final and binding. By the time the survey of Mr. Camacho's land was complete in February of 1979, however, the Trust Territory Government, as well as the Land Management Office, no longer existed. Furthermore, since the NMI was no longer a Trust Territory, it no longer had a Resident Commissioner.<sup>4</sup> Therefore, obtaining the Resident Commissioner's approval was impossible.

#### Results of the 1979 Survey

The 1979 survey was performed by the CNMI Division of Lands and Surveys pursuant to the directive of LMO. It produced a survey plat ("the 1979 map"). This plat showed a "Lot 374 NEW" with an area between 3.4 and 3.5 hectares. Lot 374 NEW was shown as arising out of a combination of three lots -- Lot 374, and Tracts 22929 and 22930. These two tracts were created by the same 1979 survey that merged them into 374 NEW. MPLC contends that these tracts were public land by virtue of their being so labelled in the 1979 map.

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<sup>4</sup> The Resident Commissioner gave up his authority in January of 1978. MPLC took over the duties of the Land Management Office at that time, but MPLC did not actually begin to function until the summer of 1979.

Plaintiff testified that the surveyors discussed the results of the survey with him and told him where the boundaries of his property were to be set. According to Plaintiff, he decided to move from Chalan Kanoa and build a house on the I Denne land in reliance on these statements. Plaintiff subsequently built his home on the lot several months thereafter.

Plaintiff contends that he obtained a copy of the survey plat and delivered it to MPLC. It is undisputed that MPLC had this plat in their possession no later than 1981.

In 1986, the estate of Luis T. Camacho was probated. The Decree of Final Distribution gave the I Denne land to the Plaintiff. This Final Distribution reserved in Plaintiff any rights or claims against the government.

On March 16, 1989, MPLC issued a grazing permit to Mr. Ignacio Togawa, a resident of I Denne and a neighbor of Plaintiff. The grazing permit covered "0.5 Ha (Hectares) plus" of "unsurveyed" land. It included the northernmost portion of Plaintiff's I Denne land. MPLC apparently gave no notice to Plaintiff that they were issuing this permit.

Plaintiff's protest to MPLC was met by the statement that the property in question was public land. Mr. Togawa, MPLC's permittee, erected a barbed-wire fence across the disputed portion of the land. In 1990, Plaintiff brought the present action to quiet title.



Resolution

MPLC raises several legal arguments in support of its claims. First, it argues that the court should dismiss this action because the Plaintiff has failed to name Mr. Togawa as a defendant in this action. A grazing permit is not an interest in land sufficient to warrant the joinder of its holder prior to a judicial determination of ownership in the land that is the subject of the permit. In fact, the particular permit at issue in this case states that:

*This permit shall not be construed in any manner, substance or form as a grant of an interest in the above-described land, whether freehold or leasehold. This permit . . . may be canceled by the Corporation at its sole option at any time, provided that the Permittee is given written notice in advance prior to the effective date of cancellation.*

*MPLC Agricultural Grazing Permit in Favor of Ignacio P. Togawa, at 2 (granted March 16, 1989).*

Because Mr. Togawa has no legal interest in the land, he may not sue to maintain the permit unless MPLC cancels it without giving written notice presumably on as little as one day's notice. From the express terms of the permit, that is the only protectible interest he has in the property. Therefore, Mr. Togawa cannot be subject to multiple suits on any of the issues involved in this case since he does not hold an interest that would allow him to sue on his own behalf. If MPLC loses this case, it simply must give him one day's notice that he must discontinue use of the portion of the land in which this court quiets title in Plaintiff's name. The court, therefore, declines to dismiss the case as it finds that his presence in this lawsuit is neither necessary nor is he affected in

any meaningful way relevant to the resolution of the issues presented in this case. The court has very serious problems with several arguments MPLC made at trial and in its pleadings. The basis of MPLC's arguments seem to be that its predecessor, LMO, exceeded its authority,<sup>5</sup> was negligent in performing the 1979 survey,<sup>6</sup> and that MPLC is in no way accountable for actions taken by LMO.<sup>7</sup> These arguments are absurd from both a legal and a practical standpoint. MPLC and LMO are both organs of our local government, whether it be the Trust Territory or the Commonwealth. Simply because the CNMI acquired Commonwealth status did not free its newly established agencies from responsibility for the acts of their predecessors in the Trust Territory. Therefore, actions taken by LMO are binding on MPLC. To accept MPLC's argument would allow it to disregard any act LMO performed in its official capacity. The adoption of this policy would result in chaos. Therefore, it is rejected.

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<sup>5</sup> *MPLC's Proposed Findings of Fact and Conclusions of Law*, at 5 (filed November 18, 1991) ("[T]he Land Management Office was generally wheeling and dealing in public land. In other words, public land was being given away to private landowners without any controls.").

<sup>6</sup> *MPLC's Proposed Findings of Fact and Conclusions of Law*, at 6 (filed November 18, 1991) ("In preparing the survey map, the Land Commission officials never consulted or reviewed Land Claims Map No. 6 despite the reference to that document in TD No. 13.")

<sup>7</sup> *MPLC's Proposed Findings of Fact and Conclusions of Law*, at 10 (filed November 18, 1991) ("Additionally, MPLC cannot be blamed for this failure as it is a separate entity from the Land Commission.").

The court is somewhat puzzled by MPLC's suggestion that LMO exceeded its authority and may have negligently surveyed the land in 1979. This is especially true since these admissions tend to prove rather than disprove Plaintiff's contention that he relied to his detriment on the LMO surveyor's assurances that the hectare in question belonged to him. Furthermore, the court finds that with respect to the issue of estoppel it is irrelevant that LMO did not have the authority to convey land without approval from the Resident Commissioner.<sup>8</sup> The issue is whether the LMO surveyor induced *reasonable* reliance on his survey and oral statements, not whether LMO *could* have conveyed the property to the Plaintiff.<sup>9</sup> The court finds that Plaintiff reasonably relied on the survey and the surveyor's oral statements. The court also finds that LMO induced such reliance, knowing that Plaintiff would rely and act

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<sup>8</sup> It is clear, however, that LMO did have the authority to determine whether a particular tract of land was public or private. See, *Territorial Register*, Vol. 1, No. 6, at 170 (December 15, 1974) ("The District Land Title Officer is hereby authorized and empowered to determine, in accordance with this Regulation, the ownership of any tract of [public land]"). The evidence showed that the title officer adhered to the process by which such determinations were to be made.

<sup>9</sup> It is not the Plaintiff's contention that LMO's designation of the two tracts as public was correct. Rather, the Plaintiff contends that the land *always* belonged to his family. Therefore, LMO did not convey public land to his family. It merely gave the family what was rightfully theirs.

upon it. Therefore, MPLC is estopped from denying Plaintiff's title to the land in question.<sup>10</sup>

The court specifically finds that Plaintiff's legal claim to the land is superior to that of MPLC. The documentary evidence Plaintiff presented convincingly supported his claim to title of the property. Testimony revealed that the documentary evidence MPLC presented was unreliable or questionable at best.<sup>11</sup> Plaintiff's testimony, in addition to the documentary evidence he presented at trial, clearly and convincingly prove that the disputed tracts of land belonged to his father, and were left to him in his father's will.

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<sup>10</sup> As this court noted in *Aquino v. Tinian Cockfighting Board*, No. 90-35, at 5 (Super. Ct. 1991), courts are generally wary of using an estoppel theory against the government. Where the government's actions amount to "affirmative misconduct," however, it will be estopped from denying it engaged in the conduct for which the remedy is sought. *Id.* As this court noted in *Aquino*, "where the government gives incorrect information or fails to warn of potential traps in its procedures," affirmative misconduct can be found. *Id.* Clearly, the government's surveyors were in a better position than Mr. Camacho to know the numerous procedural traps that existed during the period of transition from a Trust Territory to a Commonwealth (e.g., the fact that the Resident Commissioner no longer existed made it impossible to completely comply with the Trust Territory law).

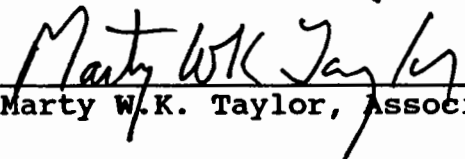
<sup>11</sup> The crux of MPLC's claim to the land involved testimony with respect to a hash mark on the Asia Mapping Survey. The testimony of the defendant's own witness questioned the significance and conclusiveness of this line. If the defendant's own witness is unsure what the hash line signifies, the court certainly will not place a great deal of value on its placement on the map.

MPLC's contention that Plaintiff cannot win in this action because MPLC is constitutionally unable to transfer a freehold interest in public land must also be rejected. Plaintiff is not asking MPLC to transfer him public land. Instead, Plaintiff asks this court to determine that the land is not public and has always been his family's private land. Therefore, a decision for Plaintiff in this case will not require MPLC to transfer any land in violation of its constitutional mandate. It merely requires MPLC to remove its current permittee from Plaintiff's land.

The Court finds that both equity and law require that it conclude that Mr Froilan S. Camacho is the legal owner of the property known as Lot 374 NEW, as described on survey plat "DLS Check No. 2020/82." The court also finds that the Marianas Public Land Corporation has no interest in any portion of Lot 374- NEW as depicted on that plat. The Plaintiff's claim of title to the land is not only legally superior to MPLC's claim that it is public, but LMO, another government agency, caused Plaintiff to reasonably rely to his detriment on its representations.

The court rejects Plaintiff's claim that he is entitled to costs and attorney's fees.

Entered this 6<sup>TH</sup> day of February, 1992.

  
Marty W.K. Taylor, Associate Judge