

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

ESTATE OF VICENTE S. MUNA,
Deceased, by and through Larry T. Lacy,
Administrator

Plaintiff

vs.

COMMONWEALTH OF THE NORTHERN
MARIANA ISLANDS,

Defendant.

CIVIL ACTION NO. 96-0769

**DECISION AND ORDER
GRANTING PLAINTIFF'S
MOTION
FOR SUMMARY JUDGMENT**

I. INTRODUCTION

Plaintiff Estate of Vicente Muna by Larry Lacy (“Muna”) brings this action to quiet title on a parcel of land which was the subject of an adjudication by the Senior Land Commissioner in 1991. Muna now moves for summary judgment, arguing that facts of this case have been determined administratively, leaving no issue for the court. Defendant Commonwealth of the Northern Mariana Islands (“CNMI”) cross-moves for summary judgment, arguing that the administrative determination is invalid and the claim is barred because the statute of limitations ran prior to Muna seeking to retake the family land. Further, there was no notice to CNMI at the time the decision was made, rendering the decision invalid. Additionally, CNMI argues that because there are no longer monuments which adequately describe the

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[p. 2] exact location of the parcel, it is not possible to quiet title. The court, having reviewed the briefs,

declarations, exhibits, and having heard and considered the arguments of counsel now renders its written decision.

II. FACTS

On March 15, 1991, a Land Registration Team determined that Muna was the pre-war owner of Japanese lots 448 and 448-1, an area of 6,277.6 square meters located in North Garapan, Puntan Muchot. This adjudication was subsequently approved on April 16, 1991 by then Senior Land Commissioner, Juan M. Manglona (“Manglona”), who issued a Determination of Ownership to Muna.¹ However, the land was never conveyed by CNMI. Muna informed Manglona, who then wrote a letter on June 9, 1993, which was addressed to the Executive Director of the Marianas Public Land Corporation (“MPLC”), the title owner of lands including the Muna parcel. The letter notified MPLC of the 1991 determination that Muna owned Japanese lots 448 and 448-1 and suggested a land exchange, noting that the Land Commission had previously issued Certificates of Title covering the Muna property.

Nothing happened. Muna did not receive title to Japanese lots 448 and 448-1 or any other CNMI lands as an exchange. Finally, Muna asked the Director of Land Registration and Survey, Antonio R. Sablan (“Sablan”), for assistance. Sablan issued a memorandum to Governor Froilan C. Tenorio on May 1, 1996, in which he outlined the Muna claim. In the memorandum, he suggested that the true parcel size was not 6,277.6 square meters, but rather 8,000 square meters. Although he acknowledged that he was bound by the prior Land Commissioner’s findings, he also suggested that those findings were improper because the code provisions were not followed and suggested a land exchange based on the higher lot size.

III. ISSUES PRESENTED

1. Whether an administrative decision not appealed within 30 days is binding
- [p. 3] 2. Whether lack of notice or other procedural irregularities open an administrative decision to judicial review after the time to appeal has elapsed.

IV. STANDARDS FOR SUMMARY JUDGMENT

¹Muna claims that the first attempt to reclaim the land at issue was in 1948 by Vicente Muna. However, the first application to reclaim the parcel at issue of which Muna has proof was made on September 20, 1971 by Tobias Muna. CNMI acknowledges that Muna owned land in North Garapan during Japanese times.

The Court's role in determining a motion for summary judgment is issue finding, not issue determination. Rachel Concepcion v. American International Knitters, 2 CR 940 (1986). On a motion for summary judgment, the court will view the facts in a light most favorable to the nonmoving party. Cabrera v. Heirs of De Castro, 1 N.M.I. 172 (1990). Conclusory allegations or general denials are not enough to raise a genuine issue of material fact. Santos v. Santos, 4 N.M.I. 206 (1994); Estate of Mendiola v. Mendiola, 2 N.M.I. 233 (1991).

V. ANALYSIS

The Land Commission Act of 1983 established the Land Commission as an independent government agency whose purpose was to register all land within the Commonwealth. 2 CMC §4212, §4213. A Senior Land Commissioner, appointed by the governor, was empowered to hold hearings on disputed land titles as well as to issue certificates of title. 2 CMC §4222. The statute provides that the Senior Land Commissioner may, in lieu of making a decision on any matter, refer claims to the Commonwealth Trial Court. 2 CMC §4242. In this case, the Senior Land Commissioner, Mangbna, made the decision, based on the findings of his Land Registration Team.

Administrative agencies are the appropriate venue for claims when administrative remedies are provided by statute, and judicial intervention should only occur as directed by statute. Castro v. Division of Public Lands, 96-006, Supreme Court, Nov. 20, 1997. When an administrator makes a finding, and issues an order or decision, "that order or decision then becomes the order or decision of the agency without future proceedings unless there is an appeal to, or review on motion of the agency within the time provided by rule..." 1 CMC §9110 (a). Unless a statute enacted by the Commonwealth Legislature explicitly precludes judicial review, "[a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action, is entitled to judicial review of the action within 30 days thereafter in the Commonwealth Superior Court." 1 CMC §9112(a), §9112(b).

[p. 4] The Land Commissioner was empowered by statute to decide Muna's claim and did so. The Land Commission Act does not preclude judicial review. In fact, it specifically provides for judicial review of its decisions within a set time limit. Accordingly, the parties had thirty days to appeal any decision issued by the Land Commissioner to the Superior Court. The CNMI government never appealed the Land Commissioner's decision, even after the 1993 letter which informed MPLC of the disposition of the

administrative hearing. Thirty days have long since passed, precluding CNMI from appealing the 1991 decision granting Muna title to Japanese lots 448 and 448-1.²

However, a court may void or disregard an administrative decision if a party can demonstrate that procedural irregularities occurred. In re Estate of Taisakan, 1 CR 326 (D.N.M.I. App. 1982). If an administrative agency's action is unlawful or invalid, a court is compelled to set it aside, as an agency may not act in excess of its statutory powers. Seman v. Aldan, 2 CR 916, aff'd. 3 CR 152.

The twenty year statute of limitations had expired before the administrative finding was made based upon the initial 1971 claim, if only by a period of months.³ If no administrative appeal had already been made, this court would follow the decision in Castro and grant summary judgment against Muna, whereupon he could make a claim with MPLC where the statute of limitations is not an issue. The complicating factor in this case is that Muna already applied to a government agency for relief, which was granted in 1991 and not appealed by the CNMI. Our government, though newer than many, must be held accountable for its decisions if it is to be legitimate in the eyes of its citizens.

The court finds CNMI's argument, that the government did not give itself notice of the proceedings, disingenuous. Though notice provisions are essential to protect the rights of our citizens, and administrative proceedings which fail to notify persons with an interest in real property should be voided, it is unacceptable for the government to use the law as a shield after it failed to follow its own procedures and the laws of the Commonwealth. The government was constructively notified of what its [p. 5] own agency was doing, independent or not. Muna has gone through what he expected were proper government procedures. Members of the family have been attempting to reclaim the land in question since at the latest 1971. CNMI acknowledges Muna owned land in Garapan. At this late date, it is not reasonable to require Muna to begin his claim anew after government findings were made by officers of the CNMI acting in their official capacities in 1991.

VI. CONCLUSION

²Even the United States government has been precluded from appealing an administrative decision after a ninety day limit has run. U.S. v. State of Cal., 932 F.2d 1346 (9th Cir. 1991).

³Although Muna cannot present proof that a 1948 claim was filed from which no government decision was received, this type of situation is not unheard of. See Rios v. Marianas Pub. Land. Com., 3 N.M.I. 512 (1993).

Muna's motion for summary judgment is granted and CNMI's cross-motion for summary judgment is denied. The court finds that it does not have jurisdiction to disturb the 1991 administrative finding. Accordingly, the finding of the Land Registration Team and Senior Land Commissioner stands, and Muna is entitled to quiet title for the 6,277.6 square meters of land comprising old Japanese lots 448 and 448-1.

SO ORDERED this 17 day of September, 1998.

/s/ Edward Manibusan
EDWARD MANIBUSAN, Presiding Judge