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

ESTATE OF VICENTE S. MUNA, Deceased, by and through LARRY T. LACY, Administrator Plaintiff/Appellee/Cross-Appellant, v. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, Defendant/Appellant/Cross-Appellee.	**APPEAL NOS. 98-031 and 98-035** **CIVIL ACTION NO. 98-0769** **OPINION**

Argued and submitted August 17, 1999 - Tinian, C.N.M.I.

Cite as: *Estate of Muna v. Commonwealth*, 2000 MP 2

Counsel for Defendant/Appellant/Cross-Appellee: Thomas E. Clifford
Assistant Attorney General
Saipan

Counsel for Plaintiff/Appellee/Cross-Appellant: Brien Sers Nicholas
Saipan

BEFORE: DEMAPAN, Chief Justice, CASTRO, Associate Justice, and BELLAS, Justice *Pro Tem*.

CASTRO, Associate Justice:

[1] Both parties appeal the trial court's order granting summary judgment to the plaintiffs, wherein the court found that it did not have jurisdiction to disturb a prior administrative finding of the Land Commission. For the sake of judicial efficiency, we have consolidated appeals no. 98-031 and no. 98-035. We have jurisdiction pursuant to Article IV, Section 3 of the Constitution of the Commonwealth of the Northern Mariana Islands, as amended.[1] We affirm.

[1] N.M.I. Const. art. IV, § 3 was amended by the passage of Legislative Initiative 10-3, ratified by the voters on November 1, 1997 and certified by the Board of Elections on December 13, 1997.

ISSUE PRESENTED AND STANDARD OF REVIEW

[2]The dispositive issue is whether the trial court erred in holding that it was bound by the 1991 administrative findings of the Land Commission.[2] We review *de novo* the application of administrative res judicata. *In re Estate of Ogumoro*, 4 N.M.I. 124, 127 (1994).

FACTUAL AND PROCEDURAL BACKGROUND

The late Vicente S. Muna owned some land located in Garapan, Saipan during the Japanese era. This fact is not disputed by the Government. However, there is no record of Vicente Muna ever filing a claim to the land. On or about September 20, 1971, Tobias C. Muna ("Tobias"), an heir of Vicente Muna, filed an application for registration of Japanese lots 448 and 448-1, containing 0.8 hectares, located in Puntan Muchot, North Garapan.

Approximately twenty years later, on March 15, 1991, a land registration team determined that Vicente Muna was the pre-war owner of lots 448 and 448-1, containing an area of 6,277.6 square meters. Then Senior Land Commissioner, Juan M. Manglona ("Manglona") subsequently approved the adjudication and issued a determination of ownership to the heirs of Vicente Muna on April 16, 1991. The land, however, was never conveyed to the Munas.

On June 9, 1993, Manglona wrote a letter to the Executive Director of the Marianas Public Land Corporation ("MPLC"), the title owner of the Muna parcel. The letter informed MPLC of the 1991 determination in favor of the Munas and noted that the Land Commission had previously issued one or more certificates of title covering the Muna property. Manglona suggested a land exchange and requested a meeting between MPLC and the Land Commission.

No further actions were taken until May 1, 1996 when Tobias sought the assistance of the Director of Land Registration and Survey, Antonio R. Sablan ("Sablan"). Sablan issued a memorandum outlining the Munas' claim to then Governor Froilan C. Tenorio. In the memorandum, Sablan found that the Munas

---

[2] The parties also raised the following issues: (1) Whether the trial court erred in granting summary judgment in favor of the Munas and denying summary judgment in favor of the Government; and (2) Whether the trial court erred in granting the Munas summary judgment to only 6,277.6 square meters of land, rather than 8,000 square meters. Since we affirm the trial court's finding that it did not have jurisdiction to set aside the 1991 administrative determination, we need not reach these other issues.

were the owners of lots 448-1, 448-2 and part of lot 448, containing approximately 8,000 square meters, rather than 6,277.6 square meters. *See* May 1, 1996 Memorandum from Antonio R. Sablan ("Sablan Report"), Appeal No. 98-031, Excerpts of Record ("E.R.") at 28-34. Sablan also noted that the 1991 determination did not conform to some of the procedures required by the applicable code provisions, and that all of the North Garapan District, including the Puntan Muchot area claimed by the Munas, were the subject of prior determinations. *Id.* at 33. However, Sablan further acknowledged that he was barred from re-determining land and that he was therefore bound by the former Land Commissioner's determinations. *Id.*

The Estate of Vicente S. Muna, by Larry T. Lacy, Administrator ("Muna"), subsequently brought an action to quiet title. Muna moved for summary judgment and the Government opposed and cross-moved for summary judgment. Noting that the Government failed to appeal the Land Commission's decision, the trial court found that it was bound by the 1991 determination. The court acknowledged that an administrative decision may be disregarded if a party can demonstrate that procedural irregularities occurred. *Estate of Vicente S. Muna v. Commonwealth,* Civil Action No. 96-0769 (N.M.I. Super. Ct. Sept. 17, 1998) (Decision and Order Granting Plaintiff's Motion for Summary Judgment at 4) ("Decision") (citing *In re Estate of Taisakan*, 1 CR 326 (D.N.M.I. App. Div. 1982)). However, the court found the Government's argument that it did not receive notice of the administrative proceedings disingenuous. *Id.* Finding that the Government was constructively notified of what its own agency was doing, the trial court concluded that "Muna is entitled to quiet title for the 6,277.6 square meters of land comprising old Japanese lots 448 and 448-1." *Id.* at 4-5. Both parties timely appealed.

ANALYSIS

I. The Land Commission

[3,4,5]The Land Commission[3] was established as an independent governmental agency by the Land Commission Act of 1983 for the purpose of registering all land within the Commonwealth. 2 CMC §§ 4212, 4213. To carry out this purpose, a Senior Land Commissioner was charged with duties and

[3] The Land Commission was subsequently abolished and its functions were transferred to a Division of Land Registration within the Department of Lands and Natural Resources. Executive Order 94-3, § 306(b).

responsibilities such as holding hearings on disputed land claims, issuing certificates of title, and recording certificates of title of land with the Recorder. 2 CMC § 4222 (b)(c)(d). The Senior Land Commissioner also had the power to appoint land registration teams, whose duties included instituting a preliminary inquiry regarding title to all lands claimed, recording well-founded claims for hearing, and proceeding, after notice, to hear the parties and witnesses and adjudicate such claims. 2 CMC § 4241(a)(1), (2). The statute further required the land registration team to submit its record concerning a claim to the Senior Land Commissioner for review. 2 CMC § 4241(c). The Senior Land Commissioner would then either make a determination of ownership, if satisfied with the record, or hold further hearings. 2 CMC § 4243.

[6]In this case, a land registration team did determine that Vicente Muna was the pre-war owner of lots 448 and 448-1. Senior Land Commissioner Manglona then reviewed and approved the adjudication, and issued a determination of ownership on April 16, 1991. Any person with actual or constructive notice of the determination and an interest in the property had 120 days thereafter to seek judicial review of the determination. 2 CMC § 4249. No one, including the Commonwealth Government, appealed the decision to the Superior Court.

II. Administrative Res Judicata

[7,8]The doctrine of administrative res judicata bars an action that has already been the subject of a final administrative decision. *In re Estate of Ogumoro*, 4 N.M.I. 124, 127 (1994). An administrative adjudication may be set aside, however, under narrow exceptions if it was (1) void when issued; (2) the record supporting the agency's decision is patently inadequate; or if according the decision res judicata effect would (3) contravene an overriding public policy or (4) result in manifest injustice. *Id.* (citing *In re Estate of Dela Cruz*, 2 N.M.I. 1, 11 (1991)). In the case at bar, while the trial court did not specifically address the foregoing exceptions, it did note that an administrative decision may be voided if procedural irregularities occurred, *In re Estate of Taisakan*, 1 CR 326, 335 (D.N.M.I. App. Div. 1982), or if an administrative agency's action was unlawful or invalid. *Seman v. Aldan*, 2 CR 916, 924 (N.M.I. Trial Ct. 1986), *aff'd.* 3 CR 152.

The Government contends that res judicata should not apply in this case because the Land Commission failed to comply with the procedures set forth by statute. More specifically, the Government argues that lack of notice on the former MPLC and the Commonwealth Government as well as lack of a

public hearing resulted in a patently inadequate record and rendered the administrative findings legally invalid. We disagree.

[9]Mere lack of notice of an administrative proceeding to determine ownership of real property does not result in a due process violation. *In re Estate of Mueilemar*, 1 N.M.I. 441, 446 (1990). Lack of notice alone is insufficient to attack a determination of ownership. *Sablan v. Iginoef*, 1 N.M.I. 190, 198 n.3 (1990) (citing RESTATEMENT (SECOND) OF JUDGMENTS § 83, cmt. i (1977)). Accordingly, even if we were to agree that the Government was entitled to receive notice, such a deficiency would not compel overturning the 1991 determination of ownership.

[10,11]In addition, we note that administrative adjudications enjoy a presumption of regularity. *See In re Estate of Taisakan*, 1 CR at 335. "One who attacks the adjudication bears the burden of rebutting the presumption. The presumption may be rebutted by evidence of unfairness or prejudice in the proceedings." *Id.* (citations omitted). The burden of rebutting the presumption is a heavy one. *Bergen County Util. Auth. v. United States Envtl. Protection Agency*, 507 F. Supp. 780, 784 (D.N.J. 1981). Here, we are not convinced that the Government has met its burden of rebuttal. For example, while the Government contends that the land registration team failed to hold public hearings, there is no clear evidence in the record before us to this effect.[4] The Government merely asserts that there is no evidence of any public hearing before or after the 1991 adjudication was issued. *See* Appellant's Brief at 9. We find that the Government has fallen short of its heavy burden of rebutting the presumption of regularity accorded the 1991 adjudication. The trial court therefore correctly ruled that it did not have jurisdiction to disturb the administrative determination.

Our holding that there was no jurisdiction to set aside the administrative findings applies equally to the Munas and the Government. Thus, the Munas' claim that the 1991 determination should be modified to award them 8,000 square meters rather than the 6,277.6 square meters determined by the Land Commission fails. Once the trial court found that administrative res judicata applied, the court could not

---

[4] Similarly, the Government's argument that the Land Commission redetermined land that had already been determined is not clearly supported by the record before us. Although the Sablan Report states that all of the land claimed by the Munas was previously determined (Appeal No. 98-031, E.R. at 30-33), the map sketch relied upon by the Munas shows only one other property, known as E.A. 736, being encroached by the Muna's claimed property (Appeal No. 98-031, E.R. at 39). Due to the inconsistencies in the record, we cannot ascertain whether prior determinations were made of the Munas' land. In addition, it is unclear whether the Government raised this argument below in the trial court. Normally, this Court will not entertain an argument raised for the first time on appeal. *In re Seman*, 3 N.M.I. 57, 65 (1992).

change any part of the 1991 determination.

CONCLUSION

For the foregoing reasons, we hereby **AFFIRM** the trial court's September 17, 1998 Decision granting summary judgment to the Munas. Accordingly, the Land Commission's 1991 finding that the Munas own lots 448 and 448-1, containing an area of 6,277.6 square meters, stands.

DATED this 14th day of February, 2000.

/s/ Miguel S. Demapan
MIGUEL S. DEMAPAN, Chief Justice

/s/ Alexandro C. Castro
ALEXANDRO C. CASTRO, Associate Justice

/s/ Timothy H. Bellas
TIMOTHY H. BELLAS, Justice *Pro Tem*