

BRANS NGIKLEB, Appellant

v.

**TRUST TERRITORY OF THE PACIFIC ISLANDS, and
its ALIEN PROPERTY CUSTODIAN, Appellees**

Civil Action No. 161

Trial Division of the High Court

Palau District

October 25, 1960

Appeal from District Land Title Determination releasing land in question to Trust Territory Government. Appellee moved to dismiss on ground appeal was filed two years after determination was made. The Trial Division of the High Court, Chief Justice E. P. Furber, held that appeal was filed too late to be considered on its merits.

Appeal dismissed.

1. Administrative Law—Land Title Determination—Notice of Determination

There is no obligation upon District Land Title Officer to either notify unsuccessful claimant of determination made or to send notice to municipality where land lies. (Office of Land Management Regulation No. 1)

2. Administrative Law—Land Title Determination—Notice of Determination

In absence of express understanding to give further notice, failure of District Land Title Officer to give more than minimum notice required by applicable regulation is not adequate ground for extending time of appeal provided for. (Office of Land Management Regulation No. 1)

3. Administrative Law—Land Title Determination—Appeal

Where appeal from determination of District Land Title Officer is filed long after year provided for in applicable regulation, it is too late to be considered on its merits. (Office of Land Management Regulation No. 1)

4. Public Lands—Succeeding Sovereign

Any interest previously owned or held by Japanese Government in any land in Trust Territory is vested in predecessor of Alien Property Custodian of Trust Territory. (Vesting Order, September 27, 1951; Interim Regulations 4-48, 6-48, 3-50)

<i>Assessor:</i>	JUDGE PABLO RINGANG
<i>Interpreter:</i>	SYLVESTER F. ALONZ
<i>Counsel for Appellant:</i>	GEORGE GROVER, ESQ., <i>Public Defender</i>
<i>Counsel for Appellee:</i>	ALFRED J. GERGELY, ESQ., <i>District Attorney</i>

FURBER, *Chief Justice*

By agreement of counsel for all concerned the Alien Property Custodian of the Trust Territory of the Pacific Islands was added as an additional appellee.

So far as the merits of the motion to dismiss were concerned, counsel for the appellees rested upon his written brief filed October 10, 1960. He requested, however, that the Determination be modified by substituting the Alien Property Custodian of the Trust Territory of the Pacific Islands for the Trust Territory itself, in order to accord with the Vesting Order of September 27, 1951.

Counsel for the appellant claimed that although the notice of appeal was filed over two (2) years after the date the Determination of Ownership and Release was filed with the Clerk of Courts, it should be considered sufficient to give this court jurisdiction because no notice of determination was sent to the Municipality where the land was located until over two (2) years after the determination was filed, and that the appellant inquired at the Municipal Office several times about the determination and was informed that no determination had been received. He cited 2 Am. Jur., Appeal and Error, § 201, for the general proposition that a party aggrieved cannot be deprived of a right of review by any act or irregularity of the acts of a public officer. Counsel for the appellant stated, however, that if the appeal could not be considered on the merits, he had no objection to the Determination being modified by substituting its Alien Property Custodian in place of the Trust Territory itself in order to accord with the Vesting Order of September 27, 1951.

OPINION

[1-3] Attention is invited to the fact that under Office of Land Management Regulation No. 1 concerning these title determinations there is no obligation upon the Title Officer to either notify an unsuccessful claimant of determination made or to send notice to the Municipality where the land lies. The court therefore holds that in the absence of an express undertaking to give further notice, failure of the Title Officer to give more than the minimum notice, required by Office of Land Management Regulation No. 1, cannot be considered adequate ground for extending the time of appeal therein provided for and that this appeal having been filed long after the year provided for in the Regulation, was too late to be considered on its merits.

[4] The court, however, takes judicial notice that by the Vesting Order issued September 27, 1951, under Interim Regulation No. 4-48 as amended by Interim Regulations Nos. 6-48 and 3-50, any interest previously owned or held by the Japanese Government in any land in the Trust Territory was vested in the predecessor of the Alien Property Custodian of the Trust Territory.

ORDER

It is therefore ordered as follows:—

1. The Palau District Land Title Officer's Determination of Ownership and Release No. 134, filed January 8, 1957, with the Clerk of Courts for the Palau District in Volume T-1, page 72, is hereby modified by striking out the words "Trust Territory of the Pacific Islands" as owner and one to whom the land is released, and substituting therefor the words "the Alien Property Custodian of the Trust Territory of the Pacific Islands".

2. Subject to the foregoing modification the appellees' motion to dismiss is granted and the above entitled appeal is hereby dismissed without costs.