

In the matter of the Estate of
VICENTE D. DE CASTRO, deceased
by
GREGORIO P. CASTRO, Petitioner
Civil Action No. 158
Trial Division of the High Court
Mariana Islands District

May 17, 1968

See, also, 3 T.T.R. 446.

Hearing on objection to determination of ownership of certain lots on Saipan. The Trial Division of the High Court, E. P. Furber, Temporary Judge, held that where motion to dismiss had been denied and objector elected to present no evidence, his objection would be overruled.

Civil Procedure-Motion to Dismiss

Where motion to dismiss was denied, court clearly indicated it considered the petitioner had made out a prima facie case and where objector elected to present no evidence his objection would be overruled.

FURBER, Temporary Judge

The Land Title Officer, Mariana Islands District, "by and through the Attorney General" filed in this action an objection signed by the Deputy Attorney General, who personally appeared in court representing the Title Officer, cross-examining on his behalf, and making a motion to dismiss at the close of the petitioner's evidence-in-chief. Since then said Deputy Attorney General has become an Associate Justice and therefore disqualified to act further as counsel in this matter.

The motion to dismiss having been granted as to much of the land involved, but denied as to four lots, by Judgment Order of March 27, 1968, 3 T.T.R. 446, the court endeavored to arrange with the present Attorney General and with counsel for the petitioner for resumption of trial as to these four lots as shown by copy of Memorandum of

April 18, 1968, to the Attorney General on file in this action. The Attorney General by letter of May 2, 1968, on file in this action confirmed the District Attorney's oral notice that although the Attorney General's office still represented the Title Officer, no further action would be taken by them in this case.

Counsel for the petitioner then by Memorandum of May 7, 1968, on file in this action waived argument and requested that the matter be taken under advisement on the evidence presented.

By denying the motion to dismiss as to the four lots remaining in question, the court clearly indicated it considered the petitioner had made out a prima facie case as to those four lots. The Title Office, through the Attorney General, having elected to present no evidence, his objection as to these four lots is overruled.

It appears that notice of the amended petition has been duly given to the satisfaction of the court, that the time for objection in accordance with that notice has expired, and that no objection has been filed except that of the Title Officer referred to above.

JUDGMENT

It is, therefore, ordered, adjudged, and decreed as follows:-

1. As between the parties and all persons claiming under them, including all heirs of Vicente D. De Castro, the lands known as Lots Nos. 297, 299, 302, and 330, all located in the Marpi area on the Island of Saipan, Mariana Islands District, are owned by the petitioner Gregorio P. Castro, who lives on said Saipan, as his individual property free and clear of the claims of any other heir of said Vicente D. De Castro.

2. In accordance with Trust Territory Code, Section 283, after the time for appeal herefrom has expired without

notice of appeal being filed or after any appeal duly taken has been finally determined, this judgment shall operate to transfer to said Gregorio P. Castro, as his individual property, all right, title, and interest which said Vicente D. De Castro had in and to said lands at the time of his death, when a copy hereof, certified by the Clerk of Courts or any judge of this court, is recorded in the office of the Clerk of Courts for the Mariana Islands District.

3. This judgment shall not affect any rights-of-way there may be over any of the land in question.

4. The Land Title Officer for the Mariana Islands District is requested to note this judgment in his records.

5. No costs are assessed against any party.

JILO BULELE, AS PERSONAL REPRESENTATIVE
OF BULELE (DECEASED), Plaintiff

v.

ALBERT LOEAK, Defendant

Civil Action No. 266

Trial Division of the High Court

Marshall Islands District

June 9, 1968

Action to determine apportionment of condemnation award. The Trial Division of the High Court, Joseph W. Goss, Temporary Judge, held that in absence of agreement between parties in interest made pursuant to a meeting between them according to custom, the court would divide the award according to the parties' actual interest in the land condemned.

1. Marshalls Land Law-"Iroij Elap"-Powers

An *iroij elap* has the duty of making a correct division of any monies received on behalf of the *alabs* and *dri jerbals* under him and he has the duty of ascertaining whether there was agreement as to the acreages of the *wato8* for which payment was about to be made.

2. Marshalls Custom-Public Meetings

Under Marshallese custom, questions of magnitude to the community, for example involving payment for the indefinite use rights to two