

It is therefore the judgment of this Court that the Micronesia Board of Education Policy enunciated in # 73-2 is hereby declared to be null and void and of no legal effect and the defendant is permanently enjoined from removing plaintiffs from their positions in the Department of Education in reliance upon or using as authority for their removal, the Policy enunciated in # 73-2. No determination is made herein as to the propriety of the removal of the plaintiffs pursuant to any other provisions of law which may be applicable.

SABURO DINGELIUS, Plaintiff

v.

**TOYOMI SINGEO and District Finance Officer,
SHIRO KYOTA, Defendants**

Civil Action No. 78-76

Trial Division of the High Court

Palau District

September 14, 1976

Challenge to award, under federal law, for damage to property. The Trial Division of the High Court, Hefner, Associate Justice, held that where the federal law under which the damages were awarded barred review of the award, the award would not be reviewed, even if plaintiff actually owned the property, as to which defendant was awarded damages.

1. Courts—Questions Considered

Once the United States Congress has decided to recognize a claim as an equitable obligation of the government and has appropriated money for its payment, the judicial branch can rarely, if ever, review the legislative decision.

2. United States—Congress—Powers

The United States Congress can establish the statutory time in which to file a claim.

3. Courts—Questions Considered

The United States Congress may recognize claims under certain conditions, and a congressional resolution prescribing the rules under which a

DINGELIUS v. SINGEO

claim against the government is to be adjusted comes into court under the terms of the resolution and the court is bound by the resolution.

4. Courts—Questions Considered—Particular Cases

Where, under federal law, award for damage to property was not to be reviewed, and plaintiff claimed he was the owner of the property and that defendant was thus wrongfully awarded the damages, court could not, on that basis, review the award, even though plaintiff may be entitled to judgment that he owned the property. (Micronesia Claims Act of 1971)

<i>Assessor:</i>	SINGICHI IKESAKES
<i>Interpreter:</i>	AMADOR NGIRKELAU
<i>Reporter:</i>	MISSY F. TMAN
<i>Counsel for Plaintiff:</i>	ROMAN BEDOR, MLSC
<i>Counsel for Defendants:</i>	ITELBANG LUII

HEFNER, *Associate Justice*

On August 11, 1976, the plaintiff filed a complaint alleging he was the owner of certain lots on Peleliu Island, Palau District, and that the defendant Singeo had wrongfully claimed the lots. As a result, she was awarded a claim by the Micronesia War Claims Commission in its Claim No. 8136-F and Decision No. 9145. The plaintiff prays for a "declaration designating the plaintiff to be the recipient for the war claims compensation". Co-defendant Kyota is named a defendant solely as the disbursing officer of the funds.

At the same time the complaint was filed, the plaintiff moved for a temporary restraining order prohibiting the defendants from disbursing the funds and a restraining order was granted on August 11, 1976. On August 24, 1976, the defendant moved in writing to dismiss the complaint. The written motion alleges that the defendant is the owner of the land.

However, when this matter was orally argued on September 9, 1976, the defendant moved to dismiss the complaint on the grounds that the plaintiff was doing

nothing more than appealing the decision of the Claims Commission and that such an appeal is barred by the Micronesian Claims Act of 1971. (July 1, 1971, P.L. 92-39, 85 Stat. 92.)

Section 201, last proviso of the Act, states "That any such settlements made by such Commission and any such payments made by the Secretary under the authority of Title I or Title II shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary and not subject to review."

It is agreed that the defendant received two checks as a settlement from the Commission. The Title I payment was \$803.00. The Title II payment was \$8,419.00.

It is further conceded by the plaintiff that he is, in effect, appealing the decision of the Commission by the filing of the complaint herein.

The plaintiff asks the court to assume for the purposes of deciding defendant's motion that the defendant wrongfully and even fraudulently filed the claim with the Commission knowing the land was owned by the plaintiff. It is also assumed for the purposes of this motion that the plaintiff, being a resident of Hawaii, knew nothing of the Claims Act and the procedure for filing claims or that he knew the defendant had filed a claim.

Under that set of assumed facts, the plaintiff urges this court to review the ownership of the land and if the court finds that the plaintiff is the owner, order the defendant to turn over the claims settlement to the plaintiff.

At the outset, it is clear that if a dispute exists as to ownership of the land in question, there is nothing prohibiting the plaintiff from filing a separate suit to determine the ownership. However, the conceded purpose of the complaint on file is to have the court declare the plaintiff as the proper recipient of the claims settlement.

Under Section 201 of the Claims Act, this Court has no authority to alter the payment made.

The plaintiff argues that the application of the due process provisions of 1 TTC § 4 demand the review of the award and determination by the Court notwithstanding the provisions of the Micronesian Claims Act of 1971. It is asserted that since the plaintiff did not know of the requirement to file a claim, he did not have an opportunity to file his own claim or contest the defendant's claim. Therefore, it is argued, he has been deprived of the right to have his claim heard and denied due process of law.

It is important to note that the payments made to the defendant, and all other recipients under Title I and Title II, emanated from the legislation enacted by the United States Congress. The payment was not as a result of a suit against the government such as inverse condemnation, a tort or for any contractual claim. Any settlement made under Title I was simply an *ex gratia* contribution or accorded to the recipients as a favor. This is to be distinguished from that which may be demanded *ex debito*, as a matter of right.

Payments made under Title II were for personal or property loss claims against the United States. However, the legislation is clear. It is the offer of the United States to make an equitable settlement of postwar claims "where accepted by the claimant in full satisfaction and in final settlement of all claims. . . ." Title II, Section 201.

[1-3] In the case of either Title I or Title II payments, the only rights or claims the claimants have originate from the Act. Once the United States Congress has decided to recognize a claim as an equitable obligation of the government and appropriates money for its payment, the judicial branch can rarely, if ever, review the legislative decision. *United States v. Realty Co.*, 163 U.S. 427, 16 S.Ct. 1120, L.Ed. 215 (1896). The United States Congress can

establish the statutory time in which to file a claim. *Northern P.R. Co. v. De Lacey*, 174 U.S. 622, 19 S.Ct. 791, 43 L.Ed. 1111 (1899). The United States Congress may recognize claims under certain conditions and circumstances. *Ford v. United States*, 116 U.S. 213, 6 S.Ct. 360, 29 L.Ed. 608 (1886). A congressional resolution prescribing the rules under which any particular claim against the government is to be adjusted comes into court under the terms of the resolution and the court is bound by the provisions. *De Groot v. United States*, 72 U.S. 419, 18 L.Ed. 700 (1867).

In many cases Congress has directed that an examination and adjustment of claims shall be made by certain officers or boards and the result of their determinations reported to it. *United States v. Harmon*, 147 U.S. 268, 13 S.Ct. 327, 37 L.Ed. 164 (1893).

The Micronesian Claims Act of 1971 reveals that the United States Congress established the Micronesian Claims Commission as the board to determine meritorious claimants. The Act further authorizes the Commission to prescribe such rules and regulations as are necessary for carrying out its functions. The final date for the filing of claims shall not be more than one year after the appointment of the full membership of the commission. To assure notice of the claims procedure, the Commission was directed to "make every effort to advise promptly all persons who may be entitled to file claims under the . . . Act. . . ." Section 103(d). Section 104(a) provides for the approval or denial of claims and for a hearing, under certain circumstances, by the Commission. The provisions of Sections 103(d) and 104(a) apply to both Title I and Title II claims.

The Commission announced that the one-year filing period would commence October 16, 1972. FOREIGN CLAIMS SETTLEMENT COMMISSION, ANNUAL RE-

PORT TO THE CONGRESS, 1973 at page 35. Pursuant to the authority granted in the Act, the Commission adopted Rules and Regulations which required the claims under Title I and Title II to be filed with the Commission on or before October 15, 1973.

A further review of the rules and regulations of the Commission demonstrates a definitive plan for filing claims, procedures for settlements, hearings, and payment of awards. Forms for claims and instructions were prepared. A total of 10,648 claims were timely filed in the Trust Territory and close to 6,000 timely and untimely claims were filed in Palau. (1973 Annual Report, p. 75-76) If nothing else, these procedures and filings indicate a wide dissemination of information and notice to the public about the program.

[4] The intent of Congress is manifestly clear. The settlement payments made for Title I or Title II claims are to be final and conclusive for all purposes, and not subject to review. This court cannot and will not circumvent those terms under the guise of making a determination that the plaintiff is the owner of property where the damages occurred, then order the defendant to pay the claims settlement payment to the plaintiff.

It may well be that upon a subsequent separate proceeding, the court could find the plaintiff to be the owner of the property which gave rise to the claims award. But the settlement made to the defendant shall stand. She was the one who timely filed claims pursuant to the Act and the Commission's Rules and Regulations. She was the one who convinced the Commission of her meritorious claim, and she shall be the one to retain the fruits of her efforts and diligence.

The Micronesian Claims Act of 1971 would bar the defendant from asking for a review of the settlement by

this court if she were not satisfied with the award and it would foreclose a contesting claimant from such a review.

The plaintiff, who has failed to file a claim for whatever reason, cannot come forward at this time and obtain a review and attempt to recover the proceeds of the defendant's claims which were filed in conformance with the law.

This is not a case where the settlement made is ambiguous or the terms of the award are inherently asking for judicial review. If the payment, for example, was made to "the owners of Peleliu land" or "to the heirs of Dingelius", a determination of the owners or heirs would be required. But such is not the case here as payment was made specifically to the defendant.

It is therefore the Judgment of this Court that the plaintiff's complaint be dismissed and the temporary restraining order issued on August 11, 1976 be, and the same is hereby dissolved and the defendant shall have full access to the funds represented by Micronesian Claims Commission Decision No. 9145.

MARTIN NGIRARORO, Plaintiff

v.

BLUU MARTIN, Defendant

Civil Action No. 31-76

Trial Division of the High Court

Palau District

September 28, 1976

Appeal by wife against whom divorce was granted on ground of her adultery, challenging decision that, due to her adultery, husband was not required to pay child support. The Trial Division of the High Court, Hefner, Associate Justice, held that the customary law under which the decision was made does not violate the territorial equal protection provision.