

TRUST TERRITORY v. CAMACHO

ability to learn earlier of the facts or grounds upon which they now seek relief, and possible prejudice to appellee. *Ashford v. Stewart*, 657 F.2d 1053, 1055 (9th Cir. 1981) (per curiam). A motion for relief from judgment is not a substitute for appeal, and provides for extraordinary relief only upon an adequate and clear showing of exceptional circumstances. *Horace v. St. Louis Southwestern Railway Co.*, 489 F.2d 632, 633 (8th Cir. 1974).

TRUST TERRITORY OF THE PACIFIC ISLANDS,
Plaintiff-Appellee

v.

CLARA T. CAMACHO, Defendant-Appellant

v.

MARCELLA F. RABULIMAN and FRANCISCA F. METTAO,
Defendant-Intervenors

Civil Appeal No. 312

CLARA TAMAN CAMACHO, Plaintiff-Appellant

v.

MARCELLA F. RABULIMAN, et al., Defendant-Appellees

Civil Appeal No. 314

Appellate Division of the High Court

Northern Mariana Islands District

November 23, 1982

Appeal from trial court judgment in consolidated cases involving dispute over ownership of land. The Appellate Division of the High Court, Gianotti, Associate Justice, held that six-year statute of limitations barred land trustee, for heirs of landowner who signed a land exchange agreement, from contesting validity of agreement, and twenty-year statute of limitations barred heirs in another action from bringing suit to be declared owners of either the land exchanged or the land received in the exchange agreement, and trial court judgment was therefore affirmed.

1. Appeal and Error—Scope of Review—Weight of Evidence

The Appellate Division will not reweigh the evidence as to factual matters which have been tried and decided in the trial court.

2. Limitation of Actions—Recovery of Land

Land trustee for heirs of landowner was barred by six-year statute of limitations from contesting title of government to land which was the subject of a land exchange agreement with government signed by landowner more than twenty years previously. (6 TTC § 305)

3. Limitation of Actions—Recovery of Land

Heirs of landowner who signed a land exchange agreement with the government were barred by twenty-year statute of limitations from bringing suit to be declared owners of either the land exchanged or the land received by landowner, where they made no effort to become parties to any suit until seven months after 20-year period had passed. (6 TTC § 302)

Counsel for Appellant:

MICHAEL A. WHITE, ESQ., WHITE
AND NOVO-GRADAC, P.C., P.O.
Box 222 CHRB, Saipan, CM
96950

*Counsel for Defendant-
Intervenors:*

DOUGLAS F. CUSHNIE, ESQ., CUSH-
NIE & FITZGERALD, P.O. Box 949,
Saipan, CM 96950

*Counsel for Plaintiff
Trust Territory:*

KENT HARVEY, ESQ., *Office of the
Attorney General*, Trust Terri-
tory of the Pacific Islands, Sai-
pan, CM 96950

Before BURNETT, *Chief Justice*, GIANOTTI, *Associate
Justice*

GIANOTTI, *Associate Justice*

These appeals are the result of a dispute over ownership of Lot 1933 located in Garapan, Saipan, Northern Mariana Islands. The dispute arose out of a certain agreement to exchange Lot 1933 with other lands, said agreement having been executed by appellant Clara T. Camacho, land trustee for the heirs of Francisca Somorang (hereinafter referred to as "Camacho"). The trial division of the High Court consolidated Civil Actions 193-76 and 994 for purpose of trial and thus the consolidation of appeal files 312 and 314.

TRUST TERRITORY v. CAMACHO

Two questions are raised by this appeal. They basically are whether the land exchange between Camacho and the Government regarding Lot 1933 is valid; and, whether appellants Rabauliman and Mettao would have any interest in either Lot 1933 or the land for which 1933 was exchanged with the Government.

All of the parties raised interesting, if not fascinating, issues relating to inheritance rights of lands located in the Northern Mariana Islands; however, putting aside this myriad of traditional inheritance rights and the factual events leading up to the exchange of the land in question, these appeals involve nothing more than a problem of the statute of limitations as it is defined in 6 Trust Territory Code sections 302 and 305.

[1] Appellants would have this court examine the facts concerning the transfer of land occurring on September 11, 1954, and on April 24, 1956, between Camacho and the Government. Appellants have asked us to recognize Camacho's inability to understand what took place in these land exchanges; however, these relate to factual matters which have been tried and decided in the trial court. We will not reweigh the evidence at the appellate level as this court has so stated any number of times. See *Cabrera v. Castro*, Civil Appeal 238 (decided September 30, 1980).

First, as to the land exchange agreement between Camacho and the Government, similar factual situations have arisen in various other Northern Marianas cases and the law on this subject is well covered in the appellate division case of *Crisostimo v. Trust Territory*, 7 T.T.R. 375-78, 384, and 385.

Crisostimo holds:

Where heirs' action against government was filed fourteen years after recording of land exchange agreement entered into by government and land trustee and agreement was not agreed to by heirs as required by Land Management Regulation, and heirs'

prayer for relief asked that exchange agreement be voided, action was for rescission, not for a quiet title suit or recovery of land, so that six-year "catch-all" statute rather than twenty-year statute of limitations applied.

As regards the actions by Rabauliman and Mettao to be declared owners of either Lot 1933 or the exchange land as against Camacho, *Crisostimo* further holds:

If a person in possession of land is claiming adverse possession and there is no document to rescind, and landowner sues for recovery of his land, twenty-year statute of limitations would apply.

This ruling of *Crisostimo* was reiterated in the appellate division case of *Namuleg v. Snodgrass*, Civil Appeal 249 (decided October 22, 1979), wherein it was held:

The law of *Crisostimo* applies equally here in that approval of all of appellant's relatives or heirs is not necessary.

On October 7, 1952, a determination of ownership was issued relating to Lot 1933 in Garapan. On September 11, 1954, Camacho executed an agreement of exchange of Lot 1933 for Lot 369, followed by a deed executed April 24, 1956, while the Government granted a portion of 369 to Camacho on April 12, 1956.

Action was commenced by the Government in 1971 to eject Camacho from Lot 1933 onto which she had moved and subsequently, on July 20, 1976, Camacho filed the action to be declared owner of Lot 1933.

[2] Under the *Crisostimo* ruling, Camacho would have been bound by the six-year limitation in which to contest the title of the Government to Lot 1933. She failed to bring any action within the six-year period and would therefore be barred by the statute of limitations from raising the issue in the present cases.

[3] Also, under the *Crisostimo* ruling regarding a 20-year statute of limitations, Rabauliman and Mettao made no effort to become parties in these actions until Novem-

TRUST TERRITORY v. MALSOL

ber 24, 1976, or approximately seven months beyond the 20-year period in which the statute of limitations began to run. Any action by Rabauliman and Mettao clearly lies within 6 TTC § 302, and their action involving either Lot 1933 or the exchange lot would be barred.

Finally, counsel would have us believe that *Crisostimo* has unleashed a horrendous miscarriage of justice upon the unsuspecting residents of Saipan. We disagree.

Judgment of the trial court in cases 312 and 314 is therefore AFFIRMED.

TRUST TERRITORY OF THE PACIFIC ISLANDS,
Defendant-Appellant

v.

FRANK MALSOL, Plaintiff-Appellee

Civil Appeal No. 342

Appellate Division of the High Court

Palau District

November 23, 1982

Appeal by government from trial court decision overturning agency action dismissing from public service a Supply Officer who had committed irregularities in his duties. The Appellate Division of the High Court, Gianotti, Associate Justice, held that there was competent evidence to support agency action, and therefore reversed the decision of the trial court.

1. Administrative Law—Judicial Review—Standards

Scope of reviewing court, on appeal of an agency action, is quite narrow in finding whether there is any logical basis for determining the action of the administrative body or officer to be excessive, arbitrary, or capricious, and the courts are loath to interfere with the executive or legislative branches of the government where such interference is unnecessary or unwarranted.

2. Administrative Law—Judicial Review—Standards

Review of agency actions by the courts should be carefully used so as not to intrude upon the fellow branches of government which are equal under the separation of powers aspect of a democratic government.