

valid when he determined that the appellee had *alab* and *dri jermal* rights to the two *wetoes*. Since there was no appeal of the 1959 Land Title Officer's determination, this issue is also time-barred under Land Management Regulation No. 1.¹³

No purpose would be served by considering the other issues raised by the notice of appeal.

Based upon the foregoing, the judgment of the trial court is AFFIRMED.

FRANCISCA PWALENDIN, Appellant
v.
IGNACIO EHMELE, Appellee
Civil Appeal No. 414
Appellate Division of the High Court
Pohnpei District
October 23, 1986

Action to determine ownership of a tract of land. The Appellate Division of the High Court, Munson, Chief Justice, held that where grantor delivered a quitclaim deed to appellee and it was accepted and recorded, grantor's subsequent attempt to rescind the conveyance by executing a will devising the property to appellant was without legal effect, and therefore judgment of the Trial Court that appellee was rightful owner of the land was affirmed.

1. Appeal and Error—Findings and Conclusions—Tests

An appellate court reviews the trial court's findings of fact under a "clearly erroneous" standard.

2. Appeal and Error—Findings and Conclusions—Clearly Erroneous

A finding of fact is clearly erroneous when the entire record produces the definite and firm conviction that the court below committed a mistake.

3. Appeal and Error—Evidence—Conflicting

An appellate court accords particular weight to the trial judge's assessment of conflicting and ambiguous facts.

¹³ It is clear from examining the record that there was evidence presented during trial, which was not rebutted by the appellants, that the *katleb* did have approval from the *Droulul*. See Reporter's Transcript of Trial on July 27-28, 1981, p. 8, lines 11-17.

4. Appeal and Error—Evidence—Supporting Evidence

An appellate court does not reweigh the evidence; if there is any substantial evidence which supports the judgment of the lower court, the appellate court will affirm it.

5. Appeal and Error—De Novo Review

An appellate court reviews conclusions of law on a *de novo* basis.

6. Deeds—Rescission

Grantor could not unilaterally rescind quitclaim deed which did not recite any condition following delivery and acceptance.

7. Laches—Generally

The issue of laches turns on the circumstances of a given case and it is best left to the trial court's discretion.

8. Laches—Generally

Laches is an equitable doctrine where the court is called upon to balance the equities.

9. Appeal and Error—Harmless Error

In land ownership action, even assuming that the admission of certain testimony violated the dead man's rule, such error was harmless.

10. Deeds—Rescission

Where grantor delivered quitclaim deed to property and it was accepted and recorded, grantor's subsequent attempt to rescind the conveyance by executing a will devising the property to another was without legal effect.

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Before MUNSON, *Chief Justice*, HEFNER¹, *Associate
Justice*

MUNSON, *Chief Justice*

This action was commenced before the Pohnpei District Land Commission between Ignacio Ehmel and Francisca Pwalendin to determine ownership of Tract 74342, known as "Lipwahini." The Commission issued a Determination of Ownership naming Ehmel as the fee simple title holder.

¹ Chief Judge of the Commonwealth Trial Court, designated as Temporary Associate Justice by the Secretary of the Interior.

Pwalendin appealed to the Trust Territory High Court, Trial Division. The Trial Division affirmed the decision of the District Land Commission. Pwalendin's motion to have the Trial Division reconsider its Decision was denied. She then filed this appeal in the Trust Territory High Court, Appellate Division.

The issue presented on appeal is whether the Trial Division correctly ruled that Ignacio Ehmel is the rightful owner of Tract 74342.

I

FACTS

Francisco Ringlen² owned Tract 74342 prior to 1967. Appellant Francisca Pwalendin was his natural daughter. He adopted appellee Ignacio Ehmel, the son of his second wife.

On January 22, 1967, Ringlen executed a document conveying Lipwahini to Ehmel in the presence of two witnesses. The evidence indicated that he questioned one of the witnesses, Pretrick Esiel, regarding the effect of a will and a deed and then executed a quitclaim deed. He then instructed Esiel to record the deed and deliver it to Ehmel. Esiel recorded the deed on July 2, 1969. Esiel later delivered the deed to Ehmel. Ehmel asked Esiel to hold onto the deed for him which Esiel agreed to do.

On October 19, 1970, Ringlen executed a will which purportedly rescinded the conveyance of Lipwahini to Ehmel and devised it to Pwalendin. This will was recorded with the Pohnpei Clerk of Courts on November 23, 1970. The reason contained in the will for Ringlen's change of heart

² Francisco Ringlen is also referred to as Francisco Alpios and Francisco Emilios in the pleadings. For purposes of clarity, he will be referred to as "Ringlen" throughout the Opinion.

was Ehmel's failure to care for Ringlen and the land in question.

Ringlen died in 1970. In 1978, an action was initiated before the Pohnpei District Land Commission to determine ownership to Lipwahini. Pwalendin argued that the land was rightfully hers based on the 1970 will. The Land Commission found that "Francisco conveyed all rights and title to the property to Ignacio on January 22, 1967" and therefore could not transfer that same property to Pwalendin by the 1970 will.

Pwalendin appealed to the Trust Territory High Court, Trial Division. The Trial Division found that Ringlen had conveyed Lipwahini to Ehmel in 1967. The court held that the conveyance was by quitclaim deed and that Ringlen's subsequent attempt to transfer it to Pwalendin was without legal effect. Pwalendin filed a motion to have the Trial Division reconsider its decision, but the motion was denied.

Pwalendin appealed to this court. She argued that the Trial Division erred in affirming the Land Commission because:

1. *Luhk v. David*, 5 T.T.R. 237 (Tr. Div. 1970), mandates that the land revert to Ringlen since Ehmel did not take care of him.
2. Ehmel is guilty of laches and should be estopped from raising his claim to Lipwahini.
3. There was no valid delivery and acceptance of the quitclaim deed.

II

STANDARD OF REVIEW

[1-4] An appellate court reviews the trial court's findings of fact under a "clearly erroneous" standard. *Schenk v. Government of Guam*, 609 F.2d 387, 390 (9th Cir. 1979). A finding of fact is clearly erroneous when the entire record

produces the definite and firm conviction that the court below committed a mistake. *South Seas v. Sablan*, 525 F. Supp. 1033, 1037 (D.N.M.I. 1981), *aff'd mem.*, 691 F.2d 508 (9th Cir. 1982). The appellate court accords particular weight to the trial judge's assessment of conflicting and ambiguous facts. *Id.* The appellate court does not reweigh the evidence. If there is any substantial evidence which supports the judgment of the lower court, the appellate court will affirm it. *Alik v. Alik*, 7 T.T.R. 395, 397-98 (App. Div. 1976).

[5] An appellate court reviews conclusions of law on a de novo basis. *Official Creditors' Committee of Tax Markets, Inc. v. Ely*, 337 F.2d 461 (9th Cir. 1964), *cert. denied*, 380 U.S. 978 (1965).

III

DISCUSSION

Pwalendin's appeal centers on the factual record surrounding the disposition of Lipwahini. She claims that the 1967 document was a will which was superseded by the 1970 will. The Land Commission and the Trial Division disagree with her.

In the alternative, Pwalendin argues that the 1967 document was a fee simple subject to a condition subsequent. The condition being Ehmel's caring for Ringlen. Pwalendin argues that since Ehmel did not take care of Ringlen, the title reverted to Ringlen who then had the power to devise it to her. Here, too, the Land Commission and the Trial Division disagree with her.

Finally, Pwalendin argues that there was no delivery and acceptance of the 1967 deed. The thrust of this argument is based on the fact that Ringlen gave the deed to Esiel and Esiel remained in possession of it.

[6] This case differs from *Luhk v. David*, 5 T.T.R. 237 (Tr. Div. 1970). In *Luhk*, the trial court found that a land conveyance had been specifically conditioned on an agreement of support which was not honored. *Luhk*, 5 T.T.R. at 240. Since the condition was not honored, the land reverted to the original owner. The quitclaim deed in this case does not recite any conditions. Land Commission Record No. 16. It is a deed without conditions and following delivery and acceptance, the grantor cannot unilaterally rescind it.

[7] Pwalendin argues that Ehmel should be barred by laches from raising this claim at this time. The issue of laches turns on the circumstances of a given case and it is best left to the trial court's discretion. *Rabardiman v. Matagolai*, 7 T.T.R. 424, 425 (App. Div. 1976). The trial court did not find evidence of laches and the record does not mandate a different result.

[8] Additionally, laches is an equitable doctrine where the court is called upon to balance the equities. Dobbs, D.B., *Remedies* 1973, p. 44-45. Pwalendin stands to gain title to Lipwahini if Ehmel's claim is barred. Ehmel stands to lose land that is rightfully his. Clearly, the equities lie in favor of Ehmel.

[9, 10] The trial court allowed Ehmel and Esiel to testify about conversations they had with Ringlen. Pwalendin cites this as error arguing that this violated the dead man's rule. Even assuming Pwalendin is correct, any error which took place was harmless. The quitclaim deed purports to convey Lipwahini to Ehmel. It was recorded. Esiel delivered the deed to Ehmel and Ehmel accepted it. This constituted a valid irrevocable transfer of Lipwahini. Ringlen's subsequent attempt to transfer Lipwahini to Pwalendin via the 1970 will was without force and effect. In view of the foregoing, the Judgment of the trial court is AFFIRMED.