

SOUTH SEAS CORPORATION

vs.

Vicente S. SABLAN

**Civil Action No. 81-03
Commonwealth Trial Court**

Decided April 6, 1981

**1. Jurisdiction - Commonwealth
Trial Court - Land Matters**

For purposes of the Commonwealth constitutional provision vesting original jurisdiction in Commonwealth Trial Court over actions involving land, "actions involving land" include any dispute the resolution of which is, in whole or in part, dependent upon a determination first being made of a controverted claim to any right, title, or interest in land. NMI Const., Art. IV, §2.

**2. Jurisdiction - Commonwealth
Trial Court - Land Matters**

Commonwealth Trial Court has jurisdiction over actions involving land even where the amount in controversy exceeds \$5,000.

FILED

4/6/4

Clerk
Commonwealth Trial Court
Northern Mariana Islands

BY: *[Signature]*
Judge, Commonwealth Trial Court
(Northern Mariana Islands)

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

COMMONWEALTH TRIAL COURT

SOUTH SEAS CORPORATION,)
) Plaintiff,)
) vs.)
VICENTE S. SABLAM,)
) Defendant.)

CIVIL ACTION NO. 81-03

ORDER

Plaintiff has moved for summary judgment pursuant to Rule 56, Com. R. Civ. P. The motion is supported by affidavits. No counter-affidavits were filed by the defendant and according to Rule 56(e), this failure will mean the entry of summary judgment if otherwise appropriate.

Indeed, at oral argument of this matter, defendant did not attack the summary judgment motion. The sole basis of opposition to the motion is that this court lacks jurisdiction because of Article IV, Section 2 of the Constitution of the Northern Mariana Islands. Defendant simply argues that this is an action in which the value of the matter in controversy exceeds five thousand dollars.

The plaintiff counters that argument by relying on a preceding portion of the same section of the Constitution which states that the Commonwealth Trial Court has jurisdiction over actions involving land in the Commonwealth.

This is not the first time that this court has had to determine the extent to which a case is "involving land." The same problem has been considered by the District Court for the Northern Mariana Islands. Villagomez v Villagomez, Civil No. 78-009, decided March 22, 1979. (copy attached as Appendix "A")

In that case, the plaintiff sued defendants for close to \$35,000. It was alleged that the plaintiff and defendants agreed the plaintiff would provide funds for the construction of some buildings on the defendants' land and, in exchange, plaintiff would use the buildings until she recovered her investment from rentals or profits. After the buildings were erected, plaintiff alleged the defendants breached the agreement, evicted plaintiff and therefore sued for the return of the funds plaintiff expended.

[1] Since the lawsuit concerned a purported lease of land upon which plaintiff's claim was based, the District Court held that:

"actions involving land" include any dispute the resolution of which is, in whole or in part, dependent upon a determination first being made of a controverted claim to any right, title, or interest in land.

This case, since it involves a resolution of the respective rights of the parties to the same parcel of land as embodied in disputed lease, falls within the jurisdiction of the Commonwealth Trial Court."

The odd twist to this case is the fact that this court has previously determined the rights of the parties to the

land in question in South Seas Corporation v Vicente S. Sablan, et al., Civil Action No. 80-12. During the litigation of the case, the South Seas Corporation paid rent to the defendant Sablan for the use of the premises involved in the lawsuit. That matter was decided in the plaintiff's favor so in this case, the plaintiff seeks to recover the rent previously paid.

There is no doubt that if the instant claim had been joined as an additional count in Civil Action 80-12, this court would have jurisdiction.

Since this action is a "follow up" or "fall out" from Civil Action 80-12, it would appear to be incongruous to ignore the basis of the claim and determine that this court has no jurisdiction. The core or source of plaintiff's claim is the right to the land in question.

Plaintiff's motion for summary judgment is simply that Civil Action 80-12 determined the rights of the parties and that, therefore, the rental paid to the defendant should be returned.

[2] It is concluded that since this court and the District Court (as perceived by the decision in Villagomez v Villagomez supra,) have interpreted and used the term "involving land" in a broad sense, jurisdiction lies in this court.

Accordingly, plaintiff's motion for summary judgment is granted. Plaintiff's counsel shall prepare and submit a judgment to the court for entry.

Dated at Saipan, CM, this 6th day of April, 1981.


Robert A. Heiner, Chief Judge

It can be said that the language of the Constitution cited herein is clear and unambiguous and means exactly that which it purports to convey, namely, that it encompasses legal and formal demands or forms of suits for recovery of that which has its basis for recovery from matters or controversies affecting or affected by rights, titles or interests in land.

In any event, we are not precluded from reaching into the history of the Marianas Constitution to assist us in ascertaining the intent of the framers of the Constitution when they proposed the language of Section 2 of Article IV.

We look then to the record of the Constitutional Convention. On October 21, 1976, Proposal No. 03 entitled "Proposal Regarding the Judicial Branch of Government" (Journal, Northern Marianas Constitution Convention, 1976, volume 1, page 27) is introduced and one of its purposes is to "provide for the creation of a court with jurisdiction over disputes involving land."

On that same date, Proposal No. 09^{1/} is introduced, part of which states: "Defines the jurisdiction of this Court (land court) to include matters of title, boundaries, easements, leases, inheritance, transfers, records and other matters with respect to the ownership of land and rights in land in the Commonwealth."

Proposals Nos. 03 and 09 were referred to the Committee on Governmental Institutions (pages 31 and 32 of the Journal) and were eventually reported out in Committee Recommendation No. 2 with the statement that "The Court would consider all land matters." (p. 54, Journal).

On October 28, 1976, the Convention resolved itself into the Committee of the Whole and as such unanimously adopted Committee Recommendation No. 2 (p. 68, Journal). The following day, the Chairman of the Committee on Governmental Institutions reported to the Convention that "On Delegate Proposal No. 09, 'A Proposal Regarding Special Court to Deal With Land Matters,' Your Committee Recommendation No. 2 made yesterday reflects favorably on the Proposal in its entirety." (p. 70, Journal).

(1. See also "The Georgetown Law Journal", vol. 65:1373, p. 1444 f.n.)

Article IV, Section 2 in its present form was adopted by the Convention on November 27, 1976. (p. 202, Journal) In its written report to the Convention regarding Committee Recommendation No. 2, the Committee stated that "The proposed Section 2 requires the creation of a specialized division within the Commonwealth Trial Court to hear all land matters. (p. 363, Journal, volume II) Article IV, Section 2 in its present language granting to the Commonwealth Trial Court "original jurisdiction over actions involving land," must, therefore, in light of its history, reflect the intent embodied in the Committee Recommendation No. 2 which called for the land court to consider "all land matters" and which Recommendation encompassed also Proposal No. 09 which defined its jurisdiction to include, for example, leases.

This Court holds, therefore, that the District Court for the Northern Mariana Islands does not have jurisdiction in actions involving land; that the Commonwealth Trial Court has original jurisdiction over land actions and that it extends beyond mere adjudication of title to land; that "actions involving land" include any dispute the resolution of which is, in whole or in part, dependent upon a determination first being made of a controverted claim to any right, title or interest in land.

This case, since it involves a resolution of the respective rights of the parties to the same parcel of land as embodied in disputed leases, falls within the jurisdiction of the Commonwealth Trial Court. Plaintiff's alternative prayer for damages by way of restitution is to a large extent dependent upon rights or interest in the land and cannot be resolved independently without such determination first being made.

Accordingly, Defendant's Motion to Dismiss the Complaint is granted without prejudice to plaintiff in filing this action with the Commonwealth Trial Court.

DATED: Saipan, Northern Mariana Islands this 22nd day
of MARCH, 1979.



Judge of the above entitled Court