

**Juan T. LIZAMA and Jesus T.
Lizama
vs.
Jose S. RIOS et al.**

axiomatic that the local legislature is powerless to deprive the Court of its statutory jurisdiction even if it intended to do so. 28 U.S.C. §1331; 48 U.S.C. §1694(a).

**Civil Action No. 85-0011
District Court NMI**

Decided December 20, 1985

1. Civil Procedure - Parties

Where defendant holder of license to lot in question challenges the transfer of title to the lot, the public land corporation which revoked the defendant's license and transferred the fee, is a proper party in defendant's counterclaim. Fed.R.Civ. P. 13; 19.

2. Civil Procedure - Parties

Where a conspiracy is alleged in counterclaim, co-conspirators can be joined as parties. Fed.R.Civ.P. 13; 19.

3. Jurisdiction - Original

Original jurisdiction is jurisdiction to entertain cases in the first instance and should be distinguished from appellate jurisdiction, or jurisdiction to review a case that has already been presented to a lower court; "original" does not mean "exclusive".

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

By describing the Commonwealth Trial Court's jurisdiction in land matters as original, the framers must have intended it to be just that; if they had intended such jurisdiction to be exclusive they would have so indicated.

5. Jurisdiction - District Court

Where federal district court's jurisdiction is based on a question of federal law, it is

1 Public Land Corporation (hereinafter MPLC), a Commonwealth
2 agency, claiming, inter alia, that these parties conspired to
3 deprive him of the opportunity to purchase the land and this was
4 done arbitrarily and capriciously in contravention of his
5 constitutional right to be treated equally. MPLC brings this
6 motion to dismiss Rios' claim against it arguing it cannot be a
7 cross-defendant since it was not a party to the original action.
8 Further, MPLC argues that this Court lacks subject matter
9 jurisdiction over the initial action as well as the counterclaim
10 since 1 CMC § 3102 vests original jurisdiction over all land
11 matters in the Commonwealth Trial Court. For the following
12 reasons MPLC's motion is denied.

13 This action centers on the disposition of certain real
14 property, Lot 001 D 27, in Garapan, Saipan. Jose S. Rios, the
15 defendant, counterclaimant and third party plaintiff in this
16 action acquired a license on October 14, 1982 to clear, clean
17 and maintain this lot. On July 25, 1984, MPLC quitclaimed the
18 lot to the Lizama brothers and after Rios refused to vacate the
19 property this suit was initiated.

20 The Lizama brothers brought this action against Rios
21 individually, and as the Mayor of Saipan, alleging that Rios'
22 refusal to leave the property is a taking in violation of the
23 Fifth Amendment to the United States Constitution. Rios
24 counterclaimed against the Lizama brothers alleging that they
25 had conspired with third party defendant MPLC to deny him his
26 property right in Lot 001 D 27 (his license), and further, that

1 they acted arbitrarily and capriciously in transferring the land
2 to the Lizama brothers without giving notice to the public at
3 large so that everyone would have an equal opportunity to
4 purchase the land.

5 MPLC's first argument is that since it was not an
6 original party to this action Rios cannot cross-claim against it.
7 Subsequent to the hearing on this matter Rios filed a document
8 clarifying his complaint to read counterclaim, not cross-claim;
9 MPLC's argument will be addressed in this light.

10 [1,2] Federal Rule of Civil Procedure 13(a) provides for
11 counterclaims in situations such as this wherein a defendant has
12 a claim against a plaintiff which arises out of the same
13 transaction or occurrence which gave rise to the initial cause of
14 action. Rule 19(a) authorizes joinder of additional parties,
15 MPLC in this case, where necessary to provide complete relief.

16 The Lizama brothers claim their title to the land,
17 based on the quitclaim deed they received from MPLC, is superior
18 to that of Rios. Rios' response is that the quitclaim deed
19 should be void ab initio because, inter alia, it was granted
20 unlawfully and as the result of a conspiracy between MPLC and the
21 Lizamas. Further, Rios alleges this improper grant is the basis
22 of a constitutional deprivation of his rights entitling him to
23 monetary damages. If Rios is correct and he is entitled to
24 monetary and injunctive relief, the Court will be hard pressed to
25 award this relief without having MPLC joined as a party to this
26 action.

1 In addition, if MPLC acted in concert with the Lizamas to deprive
2 Rios of his right to hold property and be treated equally as Rios
3 alleges, it is a necessary party to any action to redress this
4 wrong. Where a conspiracy is alleged co-conspirators can be
5 joined under Rule 13(h). Aerojet-General Corp. v. Aero-Jet
6 Products Corp., 33 F.R.D. 357 (N.D.Ohio. 1963).

7 [3.4] MPLC also argues that the Lizamas' cause of action is
8 really a land claim brought under the guise of § 1983 to gain
9 access to the District Court and that since the Commonwealth
10 Trial Court is vested with original jurisdiction in land matters
11 that court would be the proper forum to adjudicate this matter.
12 MPLC is correct in its assertion that the Commonwealth Trial
13 Court has original jurisdiction in all land matters, however, it
14 confuses the term original with exclusive. Original jurisdiction
15 is jurisdiction to entertain cases in the first instance and
16 should be distinguished from appellate jurisdiction, or
17 jurisdiction to review a case that has already been presented to
18 a lower court. "Original" does not mean "exclusive." People of
19 the Territory of Guam v. Rosario, 296 F.Supp. 140 (D.Guam 1969);
20 DiAntonio v. Pennsylvania State University, 455 F.Supp. 510
21 (M.D.Penn. 1978); Brown v. Pitchess, 13 Cal.3d 518, 531 P.2d 772,
22 119 Cal.Rptr. 204 (1975). By describing the Commonwealth Trial
23 Court's jurisdiction in land matters as original the framers must
24 have intended it to be just that. If they "had intended such
25 jurisdiction to be exclusive [they] would have said so." People
26 of the Territory of Guam v. Rosario, 296 F.Supp. at 142.

1 [5] Moreover, this Court's jurisdiction over the matter is
2 based on the existence of a question of federal law cognizable in
3 this Court pursuant to 28 U.S.C. § 1331 and 48 U.S.C. § 1694(a).
4 It is axiomatic that the local legislature is powerless to
5 deprive this Court of its statutory jurisdiction even if it
6 intended to do so.

7 Finally, MPLC argues that the pleadings were
8 insufficient to demonstrate a valid § 1983 claim and that in the
9 absence of specific pleadings this case should be dismissed. As
10 authority for this proposition MPLC cites Rodes v. Municipal
11 Authority of Milford, 409 F.2d 16 (3rd Cir. 1969), and Stotnick
12 v. Staviskey, 560 F.2d 31 (1st Cir. 1977). Neither case is on
13 point. Both cases deal with pro se § 1983 petitions in which the
14 plaintiffs reeled off extensive narratives of how they were
15 injured by the actions of certain government officials. The
16 pleadings in this case allege adequate facts which, if
17 substantiated, could rise to the level of constitutional
18 violations. See Maruyama v. MIHA, Civ.No. 82-0066 (D.N.M.I.
19 decision filed May 2, 1985) slip op. at 2-3, citing Aguirre v.
20 Automotive Teamsters, 633 F.2d 168, 174 (9th Cir. 1980).

21 For these reasons MPLC's motion to dismiss will be
22 denied.

23 DATED this 20th day of December, 1985.

24
25 
26

JUDGE ALFRED LAURETA