FOR PUBLICATION

E-FILED
CNMI SUPERIOR COURT
E-filed: Jan 05 2021 09:32AM
Clerk Review: Jan 05 2021 09:32AM
Filing ID: 66224709
Case Number: 04-0349-CV
N/A

IN THE SUPERIOR COURT FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

ESTATE OF RAMONA MANGABAO RANGAMAR, **Deceased.**	**CIVIL CASE NO. 04-0349** **ORDER FINDING THAT RAMONA MANGABAO RANGAMAR, A CAROLINIAN WOMAN, OWNED LOT 1607 INDIVIDUALLY IN FEE SIMPLE; AND RAMONA MANGABAO RANGAMAR CLEARLY DECIDED TO DEPART FROM CAROLINIAN CUSTOMARY LAW WHEN SHE GAVE HER DAUGHTER ASUNCION RANGAMAR ALDAN SOLE OWNERSHIP OF LOT 1607, WHICH WAS ALSO CONSENTED TO AND MEMORIALIZED IN WRITING BY OTHER FEMALE MEMBERS OF THE FAMILY**

I. INTRODUCTION

THIS MATTER came before the Court on April 19, 2018 on Ramon Tebuteb's Objection to the Petition for Final Distribution of certain real property referred to as Lot 1607. Edwin Aldan, the administrator for the Ramona Mangabao Rangamar Estate, was present with counsel Vincent Torres, esq. Also present was Ramon Tebuteb, who appeared with counsel Daniel Guidotti, esq. The Court heard the testimony of the following witnesses: (1) Administrator Edwin Palacios Aldan, (2) Meliza Deleon Guerrero Babauta, and (3) Ramon Tebuteb. The Court also admitted the following exhibits

into evidence: (1) an affidavit signed on January 13, 1988, (2) Edwin's Timeline, (3) the Time Instruction for Edwin Aldan, and (4) the Certificate of Tile of Lot 1607.

II. FINDINGS OF FACT

A. Family Tree

1. Ramona Mangabao Rangamar[1] ("Ramona") was a Carolinian woman.
2. Ramona had a Carolinian father, Gregorio Rangamar.
3. Ramona had two daughters: Asuncion Rangamar Aldan ("Asuncion") and Concepcion Rangamar Angailen[2] ("Concepcion").
4. Asuncion's biological father was a Chamorro man named Juan Reyes.
5. Asuncion had a daughter named Ana Aldan Deleon Guerrero ("Ana").
6. Ana had a daughter named Meliza Deleon Guerrero Babauta ("Meliza").[3]
7. Concepcion had a son named Ramon Angailen Tebuteb ("Ramon").
8. Ramona, Asuncion, Concepcion, and Ana all died prior to this probate action.
9. Ramona died in 1975 without a will.
10. Asuncion died in 1985.

B. History of the Properties

1. Ramona owned two properties: Lot 1607 on Mt. Tapochau[4] and Lot 353 in Chalan Kiya.
2. At trial, Ramon testified that Lot 1607 was treated as communal land and used for subsistence farming by his Carolinian great-grandfather, Gregorio Rangamar, and his relatives. He also testified that Lot 1607 is currently not being used for any purpose and does not remember the last time anyone used Lot 1607.

[1] Also known as Ramona Rangamar Angailen
[2] Also known as Concepcion Rangamar Angailen (Limes)
[3] Also known by her maiden name Meliza Aldan Deleon Guerrero
[4] Though there is no doubt that Lot 1607 is located on Mount Tapochau, some exhibits refer to the location as Garapan.

3. At trial, Meliza testified that her mother Ana told her children, including Meliza, that Asuncion's Chamorro biological father, Juan Reyes, owned Lot 1607 and intended to give it to Asuncion but put the property under Ramona's name because Asuncion was too young at the time. Meliza stated that there was an understanding that when Asuncion got older that Lot 1607 would go to her. Meliza also testified that there is a family, probably descended from Asuncion, currently living on Lot 1607.
4. There was no credible evidence that either Asuncion or Concepcion worked or lived on Lot 1607.
5. The Trust Territory Government made a Title Determination in 1953 that stated that Ramona owned Lot 1607 in fee simple.
6. Shortly before Ramona died, she was living in the same household with her daughter Asuncion, her grandson Ramon, and other family members, when she told them that her wish was to give Lot 1607 to her daughter Asuncion.[5]
7. On January 13, 1988, Concepcion executed and signed an Affidavit ("the Affidavit") to honor her mother Ramona's wish.
8. In the Affidavit, Concepcion memorialized Ramona's devise of Lot 1607 to Asuncion and also relinquished all of her interests in Lot 1607.
9. The Affidavit stated in relevant part:

> I Concepcion Rangamar Angailen (Limes) do hereby declare under penalty of perjury that I am the daughter of the deceased Ramona Rangamar Angailen. That there were two children born by Ramona Rangamar Angailen, namely: Concepcion Rangamar Angailen and Asuncion Rangamar Aldan.
>
> That before the demise of said Ramona Rangamar Angailen, she had bestowed the tract known as Lot Number 1607, Garapan District, as Palomo, Saipan, CNMI, to my sister, now deceased, Asuncion Rangamar Aldan. […]

[5] There was testimony that Ramona devised Lot 353 in Chalan Kiya property to her daughter Concepcion. For purposes of this Order, the Court need not make a finding whether or not Ramona devised Lot 353 to her daughter Concepcion.

> That I hereby relinquish any claim of ownership to said parcel of land and do hereby adhere to my mother's wish that said parcel should be given to my sister, Asuncion Rangamar Aldan and her heirs.

10. The Affidavit was also signed by Concepcion's son Ramon and Asuncion's daughter Ana.

11. Though Ramon was one of the signatories of the Affidavit, thirty years later in the probate action for the Ramona Estate he is challenging the decision of his mother Concepcion and Grandmother Ramona in regard to Lot 1607 and Ramon takes the position that Lot 1607 was family land that Ramona held in trust for the family.[6]

III. LEGAL STANDARD

The effective date of the CNMI Probate Code is February 15, 1984. 8 CMC § 2101. Therefore, when a decedent dies prior to the effective date, a decedent's estate passes according to the descent provisions of Title 13 of the Trust Territory Code. 8 CMC § 2102. However, "the non-descent provisions of [the] current probate code would still apply to the extent they are not in conflict with the descent provisions of title 13 of the Trust Territory Code." *Malite v. Superior Court of the Commonwealth of the N. Mar. I.*, 2007 MP 3 ¶ 2 n.1. The applicable non-descent provisions of the CNMI Probate Code include 8 CMC § 2104, the statute that specifies the purposes of the probate code. *See In re Estate of Camacho*, 2012 MP 8 ¶ 14 (applying 8 CMC § 2104 in a probate case where the decedent died intestate in 1977).

Title 13 of the Trust Territory Code does not have provisions for decedents who die without a written will. *See In re Estate of Rangamar*, 4 NMI 72, 75 (1993). Therefore, the Court must "resort to Carolinian custom for guidance." *Id.* Carolinian custom has "the full force and effect of law" as

[6] The following exchange occurred at the trial:

> Attorney Torres: Okay. So, let me make it simple, very simple. Do you wish to support your mom's wishes under this affidavit?
> Ramon: No.
> Attorney Torres: You don't want to support your mom's wishes?
> Ramon: Correct.

far as it does not conflict with other applicable laws. 1 TTC § 102;[7] *see also In re Estate of Lairopi*, 2002 MP 10 ¶ 12 ("It is settled law in the Commonwealth that Carolinian custom guides the distribution of the estate of a Carolinian person who dies intestate."). Under Carolinian customary law, the Court, when probating the estate of a Carolinian, will look to: (1) whether the property at issue is Carolinian family land; and (2) if the land is not family land, whether the land is transferred to the heirs individually or pursuant to Carolinian custom. *See In re Estate of Ogumoro*, 4 NMI 124, 128 (1994).

IV. DISCUSSION

A. Ownership of Lot 1607

Commonwealth Courts will uphold title determinations made by the Trust Territory Government under the principle of administrative res judicata (also known as "claim preclusion"), *see In re Estate of Kaipat*, 3 NMI 494, 497 (1993), unless the Court finds one of the following: "(1) the administrative decision was 'void when issued;' (2) the 'record supporting the agency's decision is patently inadequate;' (3) according the decision res judicata effect would 'contravene an overriding public policy;' or (4) according the decision res judicata effect would 'result in manifest injustice.'" *In re Estate of De Castro*, 2009 MP 3 ¶ 24 (quoting *In re Estate of Dela Cruz*, 2 NMI 1, 11 (1991)).

Some examples of when the Court should not give title determinations res judicata effect include: (1) the heirs of the original owner work or occupy the land at issue – not just the one claiming sole ownership, *see In re Estate of Kaipat*, 3 NMI at 498; and (2) when the descendants of the original owner all agreed at first that the title determination awarding sole ownership was incorrect, *see In re Estate of Ogumoro*, 4 NMI 124, 127 (1994). Additionally, if the original administrative title determination found that the property in question is owned by the heirs of the original property owner,

[7] The laws listed in 1 TTC § 101 with which custom may not conflict are: (1) the Trusteeship Agreement; (2) United States laws in effect in the Trust Territory; (3) Trust Territory laws and their amendments; (4) district orders and emergency district orders; (5) Trust Territory legislation; and (6) municipal ordinances.

that property determination should not be given res judicata effect with respect to an individual heir. *See In re Estate of De Castro*, 2009 MP 3 ¶ 27; *In re Estate of Dela Cruz*, 2 NMI 1, 14 (1991) (stating that the administrative determination only established that the property "was not owned by the government and that the owners were persons within that class of people known as the 'heirs of Joaquin Dela Cruz'").

Here, on November 12, 1953, the Trust Territory Government issued a Title Determination concerning Lot 1607 ("T.D. 768"). Unlike the title determinations at issue in *In re Estate of De Castro*, 2009 MP 3, and *In re Estate of Dela Cruz*, 2 NMI 1 (1991), which stated that the relevant properties belonged to a class of individuals known as the "heirs" of a decedent, T.D. 768 stated that Lot 1607 belonged to Ramona in fee simple. Therefore, the Court must give T.D. 768 res judicata effect and find that Ramona owned Lot 1607 in fee simple unless: (1) the decision was void when issued; (2) the record supporting the decision is patently inadequate; (3) according the decision res judicata effect would contravene an overriding public policy; or (4) according the decision res judicata effect would result in manifest injustice. *See In re Estate of De Castro*, 2009 MP 3 ¶ 24. For the reasons stated below, there are no grounds for the Court to set aside T.D. 768.

1. The Record Supporting the T.D. 768 Is Not Patently Inadequate

Here, neither Ramon nor Meliza presented any evidence showing what the Trust Territory Government had before it when it issued T.D. 768. There was no credible evidence that either Asuncion or Concepcion worked or lived on Lot 1607. Furthermore, the Court heard contradictory testimony concerning how Ramona came into possession of Lot 1607. Ramon testified that Lot 1607 is family land that was acquired through the Carolinian lineage system and was used for subsistence farming by his Carolinian great-grandfather, Gregorio Rangamar. Meliza however testified that Lot 1607 was put in Ramona's name by Juan Reyes, Asuncion's Chamorro Father. However, neither Ramon nor Meliza were present when

Ramona came to own Lot 1607. Furthermore, neither party presented any tangible credible evidence, other than the Certificate of Title of Lot 1607, to support or oppose the testimony of the witnesses. Thus, the Court finds the testimonies of both Ramon and Meliza to be unpersuasive and not credible as to how Ramona came to own Lot 1607. Therefore, the Court finds that the record supporting T.D. 768's determination that Ramona owed Lot 1607 in fee simple is not "patently inadequate." Thus, there is no grounds to set aside the Trust Territory Government's Title Determination in 1953 that stated that Ramona owned Lot 1607 in fee simple. *In re Estate of De Castro*, 2009 MP 3 ¶ 24.

2. According T.D. 768 Res Judicata Effect Would Not Result in Manifest Injustice

Here, unlike in *In re Estate of Kaipat*, 3 NMI 494 (1993), there was no credible testimony that the heirs of Ramona used and occupied Lot 1607 in a manner that would suggest Ramona held title to Lot 1607 as a trustee for her family. Ramon's testimony about how Lot 1607 was used is, as stated above, unpersuasive and only concerned his great-grandfather, Gregorio Rangamar, which does not assist the Court in finding how Ramona or her descendants used the land. There was no credible evidence that either Asuncion or Concepcion worked or lived on Lot 1607. Ramon even admitted that Lot 1607 is currently not being used and he cannot remember the last time it had been farmed. Additionally, Meliza's testimony about the family that allegedly lives on Lot 1607 is also not helpful because neither party asked Meliza to elaborate on several important points concerning this family, if there is such a family at all. For example, the questions of: who exactly are these alleged individuals living on Lot 1607 and how does this family view their relationship to Lot 1607 (e.g., do they see themselves as living on someone else's land, do they consider Lot 1607 family land, etc.) remain unanswered. Therefore, the Court also finds that Meliza's testimony about the family that is allegedly occupying Lot 1607 is unpersuasive.

This case is also the opposite of *In re Estate of Ogumoro*, 4 NMI 124 (1994), where the descendants of the original owner all agreed that the title determination awarding sole ownership to a single heir was incorrect. Here, Concepcion, Ramon,[8] and Ana, all signed the Affidavit stating that Ramona had devised Lot 1607 to Asuncion.[9] Notably, Concepcion signed the Affidavit ***after*** both her Mother Ramona and sister Asuncion had died. Because no one was alive to contradict Concepcion if she chose to take Lot 1607 for herself, or Concepcion could have easily said that Lot 1607 was family land owned collectively, however, Concepcion chose to execute and sign the Affidavit to honor her Mother Ramona's decision to bestow Lot 1607 to her sister Asuncion. Therefore, the Court finds Concepcion's signing the Affidavit that Lot 1607 belongs to her sister Asuncion highly credible. The fact that Concepcion signed the Affidavit strongly favors the finding that Ramona owned Lot 1607 individually in fee simple.

3. Conclusion

Therefore, for the reasons above, and because there was no evidence presented to the Court that showed that T.D. 768 was void when issued or that according T.D. 768 res judicata effect would contravene an overriding public policy, the Court finds that Ramona owned Lot 1607 in her own name in fee simple, and not as a trustee for her family.

B. Inheritance of Lot 1607

In the traditional Carolinian custom, land tenure is matrilineal. *See In re Estate of Rangamar*, 4 NMI 72, 76 (1993). "Farm land and town lots and buildings are owned collectively by the female members of the matrilineal lineages […] [and] lineage land is not divided when members of a lineage die." *Id.* quoting Alexander Spoehr, SAIPAN: THE ETHNOLOGY OF A WAR DEVASTATED ISLAND

[8] It is true that Ramon is now challenging Asuncion's title to Lot 1607 in this probate, but the Court finds that Ramon signing of the Affidavit on January 13, 1988 is an admission that Lot 1607 belongs to Asuncion.

[9] Though some of the terms of the Affidavit imply that Ramona gave Lot 1607 to Asuncion during her lifetime (e.g., "That before the demise of said Ramona, she had bestowed the tract […]"), the Court finds that such language was written in error. The Affidavit was an affirmation by Concepcion to show how Ramona intended to devise Lot 1607.

(Chicago Natural History Museum, Fieldiana: Anthropology, vol. 41, 1954). The land is "recorded in the name of the oldest female member of the maternal line, with the oldest holding title and acting more or less as a 'trustee' for the rest of the lineage members." *In re Estate of Rangamar*, 4 NMI at 76. Owning property individually is contradictory to the traditional Carolinian custom of land ownership. *See In re Estate of Ogumoro*, 4 NMI at 128; *In re Estate of Kaipat*, 3 NMI at 499 ("[I]t is indeed unusual for an ancestor to cut off other heirs from sharing in the land."). Commonwealth Courts presume that land originally owned by a Carolinian is Carolinian family land owned according to the traditional Carolinian custom. *See In re Estate of Lairopi*, 2002 MP 10 ¶ 10-13.

The Supreme Court of the Commonwealth of the Northern Mariana Islands ("Supreme Court") has recognized at least two situations where real property owned by a Carolinian will not pass according to traditional Carolinian custom. Two situations such as: (1) when the original owner of the property "clearly decides to depart from Carolinian customary law," *In re Estate of Lairopi*, 2002 MP 10 ¶ 12;[10] or (2) when the female members of the decedent's family consent to treat the property in a manner inconsistent with Carolinian land custom, *see In re Estate of Kaipat*, 2010 MP 17 ¶ 8 n.5 (quoting *In re Estate of Rangamar*, 4 NMI 72, 77 (1993)); *see also* 8 CMC § 2905(a) (stating that non-family land will pass pursuant to Carolinian custom "[u]nless the family consents or agrees otherwise").[11]

Here, as stated above, Lot 1607 was originally owned by Ramona in fee simple.[12] Because Ramona was Carolinian, there is a presumption that Lot 1607 will pass in a manner consistent with traditional Carolinian custom. *See In re Estate of Lairopi*, 2002 MP 10 ¶ 10-13. However, as

[10] *See also In re Estate of Kaipat*, 3 NMI 494, 498 (1993) ("Only where the original owner clearly decides to depart from Carolinian customary law may a devise to an heir stand.").

[11] Although 8 CMC § 2905(a) is not applicable here because Ramona died prior to the effective date of the probate code, 8 CMC § 2905(a) mirrors the rule stated by the Supreme Court in *In re Estate of Rangamar*, 4 NMI 72 (1993), which analyzed an estate of an individual who died prior to the effective date of the probate code.

[12] As stated above, there is no credible evidence presented to the Court as to who owned Lot 1607 prior to Ramona. However, what is clear is T.D. 768 gave Ramona sole ownership of Lot 1607 in fee simple.

explained below, the Court finds that the presumption has been overcome because (1) Ramona, as the original owner of Lot 1607, clearly departed from Carolinian customary law by deciding to devise Lot 1607 to Asuncion in fee simple, *see In re Estate of Lairopi*, 2002 MP 10 ¶ 12, and in addition (2) the female members of Ramona's family consented to the treatment of Lot 1607 in a manner inconsistent with traditional Carolinian land custom, *see In re Estate of Kaipat*, 2010 MP 17 ¶ 8 n.5 (quoting *In re Estate of Rangamar*, 4 NMI 72, 77 (1993)).

1. Ramona, As the Original Owner of Lot 1607, Clearly Departed from Carolinian Customary Law in Deciding to Devise Lot 1607 To Asuncion In Fee Simple

As stated above, Ramona devised Lot Number 1607 to her daughter Asuncion,[13] which Concepcion acknowledged in the Affidavit. This decision by Ramona clearly departs from the traditional Carolinian custom of having the property devised to the eldest daughter to hold as a land trustee for the benefit of the collective family lineage. *See In re Estate of Kaipat*, 3 NMI at 499 ("[I]t is indeed unusual for an ancestor to cut off other heirs from sharing in the land."). Therefore, because Ramona clearly decided to depart from Carolinian customary law, Ramona's devise of Lot 1607 to Asuncion stands. *See In re Estate of Kaipat*, 3 NMI at 498 ("Only where the original owner clearly decides to depart from Carolinian customary law may a devise to an heir stand.").

As to the method of Ramona's devise of Lot 1607, the Court finds that it took the form of a partida. A partida is a customary form of land distribution that occurs when a parent who owns a permanent interest in land holds a family meeting and divides the property amongst the children. *See In re Estate of Pangelinan*, 2018 MP 10 ¶ 16 (quoting *In re Estate of Castro*, 4 NMI 102, 107 (1994)). Such land distributions were legally recognized both before and after the passage of the Probate Code. *See* 8 CMC § 2302; *Blas v. Blas*, 3 TTR 99, 108-09 (Trial Div. 1966).

[13] Though some of the terms of the Affidavit implies that Ramona gave Lot 1607 to Asuncion during her lifetime (e.g., "That before the demise of said Ramona Rangamar Angailen, she had bestowed the tract […]"), the Court finds that such language was written in error. The Affidavit was an affirmation by Concepcion to show how Ramona intended to devise Lot 1607.

Generally, to determine whether a partida occurred, Courts look to whether the property owner: (1) called a family meeting of all members; (2) designated specific parcels of land to specific children; and (3) whether the heirs accepted the property. *See Blas*, 3 TTR at 108-09. "However, the means by which a partida is accomplished are flexible and determined on a case-by-case basis." *In re Estate of Castro*, 4 NMI 102, 110 (1994). "[W]here evidence of [the formal elements of a partida] is lacking, the court may examine the case before it with respect to its particular circumstances and need not apply a rigid set of requirements." *In re Estate of Seman*, 4 NMI 129, 132 (1994). "One of the main reasons for the flexibility is that the intent of the decedent is paramount and must be effectuated where discerned." *In re Estate of Castro*, 4 NMI at 110; *see also* 8 CMC § 2104 (stating that one of the main purposes of Commonwealth probate is "to discover and make effective the intent of a decedent in distribution of [her] property"). Therefore, even when there is no direct evidence showing that the owner performed all of the steps of a formal partida, the Court may nonetheless uphold the wishes of the decedent by finding that one was intended. *See In re Estate of Seman*, 4 NMI 129, 132 (1994) (stating that "where there is no direct evidence that a partida occurred, indirect evidence may reveal that one was intended").

"A distribution by partida may be either testamentary, in that the children take the land upon the [parent's] death, or inter vivos, with the children taking formal and sole control of their land immediately." *In re Estate of Castro*, 4 NMI at 110 (internal citation omitted).

Partidas are generally oral, *see Blas*, 3 TTR at 109,[14] however, they may also be written, *see In re Estate of Castro*, 4 NMI at 110.

When the Carolinian[15] people migrated to Saipan in the mid-Nineteenth century, the practice of partida was not a part of Carolinian culture. Instead, partida was only performed by Chamorros.

[14] Partidas do not need to satisfy the Statute of Frauds. *See Guerrero v. Guerrero*, 2 NMI 61, 71 n.4 (1991).

[15] Today, many Carolinian people in the Commonwealth prefer to refer to themselves as "Refaluwasch" meaning "People of the Deep Sea."

When the Carolinians first migrated to Saipan, the Chamorros were not present in the Northern Mariana Islands[16] because the Spanish had previously forcefully relocated the Chamorros to Guam. Following the return of the Chamorro people to Saipan in the early Twentieth Century, the Carolinians began to interact with the reintroduced Chamorros. DIRK HR SPENNEMANN, EDGE OF EMPIRE: THE GERMAN COLONIAL PERIOD IN THE NORTHERN MARIANA ISLANDS 207-208 (2007) (stating that the German colonial officials promoted an intermingling of the Chamorro and Carolinian people). By the end of World War II, the Carolinian people had adopted some Chamorro customs, including the practice of partida. ALEXANDER SPOEHR, SAIPAN: THE ETHNOLOGY OF A WAR-DEVASTATED ISLAND 334 (Chicago Natural History Museum Vol. 41) ("In cases where land is owned by an individual and inherited from individual to individual, and where it is divided among heirs at each successive generation, Carolinian practice has been assimilated to Chamorro custom."); R. EMERICK, LAND TENURE PATTERNS IN THE MARIANAS, printed in LAND TENURE PATTERNS IN THE TRUST TERRITORY OF THE PACIFIC ISLANDS 225-227 (1958) (noting the assimilation of Chamorro customary practices of land tenure and inheritance into Carolinian custom); *In re Estate of Kaipat*, 2010 MP 17 ¶ 12 (stating that Carolinian "custom requires that [the Court] respect a decedent's intent when ascertainable"); *In re Estate of Lairopi*, 2002 MP 10 ¶¶ 17-18 (stating that a Carolinian distributing property "in a manner contrary to Carolinian custom and more in line with the Chamorro concept of partida" is something she could have done); *In re Estate of Lairopi*, Civ. No. 97-1234B (NMI Super. Ct. Nov. 09, 2000) (Decision & Order Re Objection to Administrator's Petition for First and Final Distribution at 8 n.24) (John A. Manglona, Judge Pro Tem) ("Some Carolinians have deviated from the Carolinian land tenure custom by distributing the land to their members as their individual property, similar to the Chamorro custom of partida."); *In the Matter of the Estate of*

[16] On the island of Rota, there were some Chamorros who evaded capture.

Ramona Satur Taisakan, 1 CR 326, 332-34 (Dist. Ct. 1982) (finding that Carolinians have assimilated the partida practice into their culture); *see also In re Estate of Rangamar*, 4 NMI at 77 (stating that "custom over time may gradually change by a uniform and common change in practice").

Here, though there is little direct evidence to show that Ramona performed an ideal partida, such as holding a formal family meeting to discuss the devise of Lot 1607, the Court finds that Ramona clearly intended to perform one. As stated above, the Court finds that Ramona made it clear to the relevant family members, her children Asuncion and Concepcion, that she wanted Lot 1607 to go to her daughter Asuncion.[17] Ramona's heirs accepted her decision on the distribution of Lot 1607 as clearly evidenced in the Affidavit, which Concepcion, Concepcion's son Ramon, and Asuncion's daughter Ana, all signed. Thus, because the law allows Commonwealth Courts to be flexible when determining whether a partida occurred, and Ramona's intent to devise Lot 1607 to Asuncion is clear, the Court finds that there is ample credible evidence to find that Ramona intended to perform a partida with respect to Lot 1607 and shall therefore effectuate her intent to give the property to Asuncion to own individually in fee simple. *See In re Estate of Castro*, 4 NMI at 110.

2. The Female Members of Ramona's Family Consented to The Treatment of Lot 1607 In A Manner Inconsistent with Traditional Carolinian Land Custom

In addition, as stated above, and in line with Carolinian custom, the relevant female members of Ramona's family are Ramona's older daughter Asuncion and Ramona's younger daughter Concepcion. As Ramona and Asuncion had died before the signing of the Affidavit, the Affidavit was signed on January 13, 1988 by Concepcion and witnessed by Concepcion's son Ramon and Asuncion's daughter Ana. All of the relevant female members of Ramona's family who were alive on January 13, 1988, signed the Affidavit recognizing Ramona's decision to give Lot 1607 to

[17] There was testimony that Ramona devised Lot 353 in Chalan Kiya property to her daughter Concepcion. For purposes of this Order, the Court need not make a finding whether or not Ramona devised Lot 353 to her daughter Concepcion.

Asuncion. Therefore, because the female members of Ramona's family agreed that Lot 1607 was devised to Asuncion in fee simple, and "the court may allow the division of the property among individual male and female heirs" when "the females [in a Carolinian family] consent[] to [the] treatment [of the property in a manner] inconsistent with Carolinian land custom," *In re Estate of Kaipat*, 2010 MP 17 ¶ 8 n.5 (quoting ***In re Estate of Rangamar***, 4 NMI 72, 77 (1993)), the Court finds, for this reason also, that Lot 1607 was devised to Asuncion to own individually in fee simple.

V. CONCLUSION

Therefore, pursuant to the principle of administrative res judicata, the Court upholds Title Determination 768, which stated that Ramona Mangabao Rangamar, a Carolinian woman, owned Lot 1607 individually in fee simple. Additionally, the Court finds that Ramona Mangabao Rangamar clearly decided to depart from traditional Carolinian customary law and devised Lot 1607 to her daughter Asuncion Rangamar Aldan to own individually in fee simple, which was also consented to in writing by the female members of Ramona Mangabao Rangamar's family.

IT IS SO ORDERED this 5th day of January, 2021.

/s/
JOSEPH N. CAMACHO, Associate Judge