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By Order of the Court, Judge TERESA KIM-TENORIO

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

**ESTATE OF JUAN MATERAN DOWAI,)
 by and through its Administrator, Patrick)
 Norita Dowai,)
)
 Plaintiff,)
)
 vs.)
)
**ESTATE OF JUAN NORITA DOWAI, by)
 and through its Administratrix, Marcelina)
 Tagud Dowai,)
)
 Defendant.)****

CIVIL ACTION NO. 21-0281

**ORDER GRANTING DEFENDANT’S
 MOTION FOR SUMMARY JUDGMENT**

I. INTRODUCTION

This matter came before the Court for a hearing on Defendant’s Motion for Summary Judgment on December 6, 2022, at 1:00 p.m. in Courtroom 217A. Plaintiff Estate of Juan Materan Dowai, by and through its Administrator, Patrick Norita Dowai,¹ (“Plaintiff”) was represented by Mr. Michael W. Dotts. Defendant Estate of Juan Norita Dowai, by and through its Administratrix, Marcelina Tagud Dowai, (“Defendant”) was represented by Mr. Michael A. White. The Court also heard oral argument on Defendant’s Motion to Dismiss and Plaintiff’s Motion to Extend Time to File Substitution of Administrator. At the conclusion of the hearing, the Court took these matters under advisement.

¹ The death of said Administrator occurred on June 27, 2022, during the pendency of this action. (*See* Suggestion of Death.)

1 Based on a careful review of the filings and applicable law, and the arguments of the parties,
2 the Court issues the following Order.

3 4 **II. BACKGROUND**

5 Juan Materan Dowai was allegedly the owner of an agricultural homestead on Wireless
6 Ridge, Saipan, which included Lot 219 E 01, prior to his death on October 17, 1981. (*See* Compl. at
7 3.) On February 11, 2005, the Marianas Public Lands Authority (“MPLA”) issued a quitclaim deed
8 for Lot 219 E 01 for 25,000 sq. m. on Wireless Ridge to Juan Norita Dowai, one of Juan Materan
9 Dowai’s two sons. (*See id.*) Thereafter, Juan Norita Dowai died intestate on February 20, 2010. (*See*
10 *id.* at 4.)

11 On June 20, 2010, Marcelina Tagud Dowai was appointed as Administratrix of the Estate of
12 Juan Norita Dowai. *See Estate of Juan Norita Dowai*, Civ. No. 10-0065 (NMI Super. Ct. July 13,
13 2010) (Order Appointing Administratrix). On July 6, 2020, Marcelina Tagud Dowai moved for the
14 final distribution of the Estate of Juan Norita Dowai, which included Lot 219 E 01 as an asset of the
15 estate.² *See Estate of Juan Norita Dowai*, Civ. No. 10-0065 (NMI Super. Ct. July 6, 2020)
16 (Inventory). In response, Patrick Norita Dowai, as Administrator of the Estate of Juan Materan
17 Dowai,³ filed an objection to the Motion for Final Distribution alleging that Lot 219 E 01 belonged
18 to the Estate of Juan Materan Dowai and that the quitclaim deed was issued by mistake. *See Estate*
19 *of Juan Norita Dowai*, Civ. No. 10-0065 (NMI Super. Ct. March 2, 2021) (Objection to Motion for
20 Final Distribution).
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24 ² However, Lot 219 E 01 had previously been identified as property of the Estate of Juan Norita Dowai as early as
25 March 8, 2010, in the probate proceeding. *Estate of Juan Norita Dowai*, Civ. No. 10-0065 (NMI Super. Ct. March 8,
2010) (Petition for Letters of Administration at 2).

³ Patrick Norita Dowai was appointed as Administrator of the Estate of Juan Materan Dowai on April 15, 2021. *See*
Estate of Juan Materan Dowai, Civ. No. 21-0081 (NMI Super. Ct. April 15, 2021) (Order Appointing Administrator).

1 On November 18, 2021, Plaintiff initiated the instant action and filed the Complaint to
2 Establish Quiet Title contending that the Estate of Juan Materan Dowai has title to Lot 219 E 01,
3 not the Estate of Juan Norita Dowai, because the quitclaim deed was issued by mistake by the
4 MPLA to Juan Norita Dowai, rather than to Juan Materan Dowai. (*See* Compl. at 3.) On October
5 23, 2021, Defendant filed an Answer to the Complaint. On March 4, 2022, Defendant filed the
6 instant Motion for Summary Judgment. On March 17, 2022, Plaintiff timely filed Opposition to
7 Defendant’s motion and Defendant timely replied on June 14, 2022.

8 9 10 **III. LEGAL STANDARD**

11 Before the Court is Defendant’s Motion for Summary Judgment based on the elapsing of
12 the applicable statutes of limitation and Plaintiff’s failure to join an indispensable party. (*See* Mem.
13 in Supp. of Mot. for Summ. J. at 3-6.) The Court must grant summary judgment if Defendant
14 “shows that there is no genuine dispute as to any material fact and the movant is entitled to
15 judgment as a matter of law.” NMI R. CIV. P. 25(a)(1). Furthermore, summary judgment is
16 appropriate where the elapsing of the applicable statute of limitations bars the plaintiff’s claim.
17 *See, e.g., Rios v. Marianas Pub. Land Corp.*, 3 NMI 512, 527 (1993).

18 Joinder of indispensable parties is required by NMI R. CIV. P. 19(a). A party is
19 indispensable if in its absence, the Court “cannot accord complete relief among existing parties[,]”
20 or if “that [party] claims an interest relating to the subject of the action and is so situated that
21 disposing of the action in the [party’s] absence may: as a practical matter impair or impede the
22 [party’s] ability to protect the interest[,] or leave an existing party subject to a substantial risk of
23 incurring double, multiple, or otherwise inconsistent obligations because of the interest.” NMI R.
24 CIV. P. 19(a)(1). However, “[m]isjoinder of parties is not a ground for dismissing an action. On
25 motion or on its own, the [C]ourt may at any time, on just terms, add or drop a party.” NMI R.

1 CIV. P. 21. When such joinder is infeasible, the Court may dismiss the case. NMI R. CIV. P. 19(b).
2 Therefore, although the Court shall examine the indispensability of the missing party herein,
3 summary judgment would remain inappropriate, even if the party is found indispensable. The
4 Court would instead allow the missing party an opportunity to join pursuant to NMI R. CIV. P. 21
5 and would dismiss the case only after finding the joinder infeasible.

7 IV. DISCUSSION

8 **A. The Marianas Public Lands Authority is not an indispensable party to the action.**

9 Defendant moves for summary judgment on the grounds that Plaintiff has failed to join the
10 MPLA, as an indispensable party. (*See* Mem. in Supp. of Mot. for Summ. J. at 3.) The current
11 action is to quiet title to Lot 219 E 01. An action to quiet title is against the property itself, quasi in
12 rem, and “those who, at the time it is instituted, are the present claimants to the land under the
13 instrument[,]” which clouds the title of the property. *Fusco v. Matsumoto*, 2011 MP 17 ¶ 21
14 (quoting *Har v. Boreiko*, 986 A.2d 1072, 1078 (Conn. App. Ct. 2010)). Although Plaintiff’s claim is
15 predicated on an allegedly-mistaken conveyance by the MPLA to Defendant, the MPLA has no
16 *present* claim to the property. (*See* Compl. at 3.) As Defendant is the only present claimant to the
17 property under the quitclaim deed, the Court could accord complete relief among the existing
18 parties by establishing quiet title to Lot 219 E 01. *See* NMI R. CIV. P. 19(a)(1). Therefore, the
19 Court finds that the MPLA is not an indispensable party and need not be joined in the instant action.
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21 **B. Plaintiff’s Complaint to Quiet Title and for Declaratory Judgment is barred by 7** 22 **CMC § 2504.**

23 Defendant also moves for summary judgment on the grounds that Plaintiff’s claim was
24 untimely brought after the limited periods prescribed by either 8 CMC § 2924(a) or 7 CMC § 2504
25 had elapsed. Contrarily, Plaintiff argues that 7 CMC § 2502(a)(2) should instead apply to the

1 instant action. Therefore, the Court shall examine the three (3) statutes of limitation and determine
2 their applicability to the instant case.

3 8 CMC § 2924 requires that all claims against a decedent’s estate, which arose before the
4 death of the decedent, be brought within sixty (60) days after the first publication of notice to
5 creditors, or within three (3) years if no notice to creditors is published. However, the NMI
6 Supreme Court has held that claims of ownership in specific land in a decedent’s estate were not
7 “claims” for purposes of the 8 CMC § 2924 filing requirement, and the statute only applies to
8 “creditors”. *Estate of Tudela*, 4 NMI 1, 6 (1993). Plaintiff did not bring the instant action as
9 Defendant’s creditor, but rather as a party claiming title to Lot 219 E 01. (*See Compl.* at 4.)
10 Therefore, the Court is bound by the precedent set in *Estate of Tudela*,⁴ and 8 CMC § 2924 does
11 not apply to the instant case.
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13 Pursuant to 7 CMC § 2502(a)(2), actions for the recovery of land or any interest therein
14 must be commenced within twenty (20) years after the cause of action accrues. The NMI Supreme
15 Court has held that actions to quiet title are actions for the recovery of land or any interest therein.
16 *See Century Ins. Co., LTD. v. Guerrero Brothers, Inc.*, 2009 MP 16 ¶ 12. Therefore, 7 CMC §
17 2502(a)(2) applies to the instant case. However, the issue remains whether 7 CMC § 2504 also
18 applies to the instant action to quiet title.

19 The “principal responsibility in statutory construction is to discern and give effect to the
20 intent of the legislature.” *In re CNMI*, 2015 MP 7 ¶ 11. To ascertain whether the legislature
21 intended 7 CMC § 2504 to apply to actions to quiet title, the Court must first examine the plain
22 language of the statute. *Id.* Pursuant to 7 CMC § 2504, “[a]ny action by or against the executor,
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⁴ NMI Supreme Court precedent interpreting Commonwealth law is controlling for the decisions of the NMI Superior Court. *Syed v. Mobil Oil Mariana Islands, Inc.*, 2012 MP 20 ¶ 11.

1 administrator or other representative of a deceased person for a cause of action in favor of, or
2 against, the deceased shall be brought only within two years after the executor, administrator or
3 other representative is appointed or first takes possession of the assets of the deceased.” Within the
4 plain language of the statute, the legislature did not exclude specific types of actions. Instead, the
5 legislature explicitly stated that *any* action against the administrator of the estate could be subject to
6 7 CMC § 2504, if the underlying cause of action is in favor of or against the deceased. The instant
7 action was brought against the administratrix for the Estate of Juan Norita Dowai. (*See* Compl. at 1-
8 2.) Therefore, the primary issue remaining before the Court is whether the underlying cause of
9 action to quiet title is “in favor of or against” the deceased Juan Norita Dowai. *See* 7 CMC § 2504.

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11 Plaintiff opposes the applicability of 7 CMC § 2504, claiming that the instant action to quiet
12 title is an action against the underlying property, not against the estate, itself. (*See* Opp'n to Def's
13 Mot. for Summ. J. at 1.) In support of this argument, Plaintiff relies on *Dacey v. Taraday*, where the
14 Court of Appeal of California found that Cal Code Civ Proc § 366.2 was “not concerned with
15 possible claims against estate property. Rather, [the] statute, when considered within the context of
16 contracts, applie[d] to claims against the estate on all causes of action on a decedent's debts when
17 the causes of action survive the decedent's death.” *Dacey v. Taraday*, 126 Cal. Rptr. 3d 804, 819
18 (Ct. App. 2011). Plaintiff argues that Cal Code Civ Proc § 366.2 is similar to 7 CMC § 2504, as a
19 general statute of limitations for actions against estates, and, therefore, the Court should construe 7
20 CMC § 2504 to be inapplicable to claims against estate property. (*See* Opp'n to Def's Mot. for
21 Summ. J. at 5-6.)

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23 However, Cal Code Civ Proc § 366.2 is substantially different from 7 CMC § 2504 in its
24 application. Unlike Cal Code Civ Proc § 366.2, which applies to actions “brought on a liability of
25 the [deceased] person,” such as decedent's debts, 7 CMC § 2504 applies to any causes of action “in

1 favor of, or against, the deceased[.]” The language of 7 CMC § 2504 is significantly more general
2 than Cal Code Civ Proc § 366.2. Furthermore, Plaintiff misunderstands the reasoning of the Court
3 of Appeal of California. In the context of examining the applicability of California Probate Code
4 definitions to its interpretation of Cal Code Civ Proc § 366.2, the Court of Appeal referred to
5 “claims against estate property” to mean claims by creditors, as “a creditor is any person who may
6 have a claim against estate property.” *See Dacey*, 126 Cal. Rptr. 3d at 818-19. As was already
7 addressed by this Court’s earlier analysis of 8 CMC § 2924, claims of ownership in specific land in
8 a decedent’s estate are not equivalent to claims by creditors. *See Estate of Tudela*, 4 NMI at 6. For
9 the aforementioned reasons, the Court is not persuaded by Plaintiff’s comparison to Cal Code Civ
10 Proc § 366.2 or *Dacey*’s interpretation thereof.

11
12 Contrary to Plaintiff’s Opposition, the NMI Supreme Court has recognized that actions to
13 quiet title are not solely against the underlying property. *See Fusco*, 2011 MP 17 ¶ 21. Rather, an
14 action to quiet title is against the property itself, quasi in rem, and “those who, at the time it is
15 instituted, are the present claimants to the land under the instrument[.]” which clouds the title of the
16 property. *Id.* In the instant case, Juan Norita Dowai is the present claimant to the land under the
17 quitclaim deed, the instrument which clouds the title of the property. (*See Compl.* at 3.) Therefore,
18 the instant cause of action to quiet title is not solely against Lot 219 E 01, the property itself, but
19 also against the Estate of Juan Norita Dowai, the deceased, and 7 CMC § 2504 applies to the instant
20 action to quiet title by its plain language.

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22 As 7 CMC § 2504 applies to the instant action, the Court must now determine whether the
23 statute of limitations had elapsed at the time that the action was brought. The Administratrix for the
24 Estate of Juan Norita Dowai was appointed on June 20, 2010. *See Estate of Juan Norita Dowai*,
25 Civ. No. 10-0065 (NMI Super. Ct. July 13, 2010) (Order Appointing Administratrix). However, the

1 instant action was not initiated until October 15, 2021. Approximately eleven (11) years have
2 elapsed since the Administratrix's appointment, which clearly exceeds the two (2) year limitation to
3 bring suit of 7 CMC § 2504. Therefore, the Court finds that the instant action was untimely brought
4 and is time-barred pursuant to 7 CMC § 2504.⁵

5
6 **V. CONCLUSION**

7 For the forgoing reasons, the Court hereby **GRANTS** Defendant's Motion for Summary
8 Judgment. As this Order acts as the Court's final decision resolving the instant action, the Court
9 shall not address Defendant's Motion to Dismiss and Plaintiff's Motion to Extend Time to File
10 Substitution of Administrator, at this time. Furthermore, any hearing date scheduled in the instant
11 action shall be hereby vacated.

12 **SO ORDERED** this 13th day of January, 2023.

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16 **TERESA K. KIM-TENORIO**
17 Associate Judge

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⁵ However, the Court notes that this limitation remains effective only until Lot 219 E 01 is transferred in probate. Thereafter, Plaintiff may potentially bring an action to quiet title against the recipient(s) of the property, if the limitation of 7 CMC § 2502(a)(2) has not elapsed at that time or is otherwise equitably tolled.