

FOR PUBLICATION

APPEAL NO. 02-032-CV

**IN THE SUPREME COURT OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**ANSELMO M. IGLESIAS,
Individually and as the Administrator of the Estate of Anselmo Celis Iglesias,**

Appellant,

v.

**REALTY TRUST CORPORATION, BONITA VISTA PROPERTIES, LTD., VIEW TASI
LTD., CHARLES JORDAN, KEITH AUGHENBAUGH, LUCY DL. GUERRERO
NIELSEN, KENT HARVEY, IVAN KENNETH PROPST, JR., JUANITA PALMAN
PROPST, MARIA LOURDES SIROK, IMANTS EDWARD KLINGBERGS, MARIETTA
GULMATICO KINGBERGS, JOSEPH V. HOBSON, JR., MARIA T. HOBSON,
JEROME OLIVER RABDAU, and ROSE MARY JENTGES RABDAU, ROBERT
COLDEEN, WOLFE MOJICA, JUAN DOE 1 THROUGH JUAN DOE 25,**

Appellees.

OPINION

Cite as: Iglesias v. Realty Trust Corp., 2003 MP 7

Civil Action No. 88-0704-CV

Submitted on the briefs
Decided April 25, 2003

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BEFORE: MIGUEL S. DEMAPAN, Chief Justice; JOHN A. MANGLONA, Associate Justice;
VIRGINIA SABLON ONERHEIM, Justice *Pro Tempore*

DEMAPAN, Chief Justice:

¶1 Appellant Anselmo M. Iglesias (“Iglesias”) appeals the trial court’s grant of summary judgment to Realty Trust Corporation (“RTC”). We have jurisdiction pursuant to Article IV, Section 3 of the Constitution of the Commonwealth of the Northern Mariana Islands. We affirm.

ISSUES PRESENTED AND STANDARDS OF REVIEW

¶2 Did the trial court err in granting summary judgment to RTC on the grounds that Iglesias failed to prove that Article XII of the Commonwealth Constitution precludes RTC from owning real property in the CNMI? We review the trial court’s grant of summary judgment *de novo*. *Eurotex (Saipan), Inc. v. Muna*, 4 N.M.I. 280, 281-82 (1995).

FACTUAL AND PROCEDURAL BACKGROUND

¶3 In May 1981, Iglesias hired Appellee Roger Gridley (“Gridley”), then of Gridley Realty, to sell a large tract of property in Chalan Galaide, Saipan.¹ In December 1981, Iglesias offered the property to Appellee Charles Jordan (“Jordan”) for \$30,000. Along with several other partners, Jordan agreed to form a CNMI corporation to purchase the property and develop it into home sites.

¶4 On January 13, 1982, Iglesias, who is a person of Northern Marianas Descent (“NMD”), sold the property for \$30,000 to Realty Trust Corporation (“RTC”), a CNMI corporation, incorporated by Gridley, who is not of NMD, and by two other partners who are of NMD.²

¹ The property is comprised of approximately 45,990 sq. meters and is known as Agricultural Homestead Number 17 in Chalan Galaide. Excerpts of Record (“E.R.”) at 271.

² As discussed below, Article XII of the Commonwealth Constitution restricts long-term interests in real property in the CNMI to persons of NMD.

¶5 On June 2, 1982, RTC conveyed the property to Bonita Vista Properties (“BVP”), which was chartered as a CNMI corporation on May 24, 1982.³ BVP subsequently developed and subdivided the property into twenty-two lots, which were sold to persons of NMD, and leased to persons not of NMD.

¶6 In October 1988, Iglesias commenced an action in the trial court against RTC, BVP, and a number of individuals with an interest in the property. Iglesias argued below that RTC was organized and operated as the alter-ego of Jack Layne and Gridley for the primary purpose of conducting real estate transactions in violation of Article XII of the Commonwealth Constitution, which restricts the acquisition of permanent and long-term interests in real property within the Commonwealth to persons of Northern Marianas descent. On July 21, 2000, the trial court granted RTC’s motion for summary judgment. Iglesias timely appeals.

ANALYSIS

¶7 We review a grant of summary judgment *de novo*, and will affirm the trial court’s judgment if: (1) there was no genuine issue of material fact, and (2) the court correctly applied the substantive law. *Santos v. Santos*, 4 N.M.I. 206, 209 (1994). Iglesias contends that summary judgment was improperly granted in this case, because in dispute was the material fact of whether “Realty Trust Corporation was, at all relevant times, a person of Northern Marianas Descent, as defined in Article XII of the Commonwealth Constitution.” Appellant’s Opening Brief (“O.B.”) at 10. In this case, there are no material facts in question,⁴ and the trial court applied the correct law.

³ BVP was found by the lower court to be of NMD. This finding was, and is, undisputed by Appellants.

⁴ Despite Iglesias’s assertions to the contrary, there are no material facts in question. Whether RTC is a person of NMD is a question of law, not a question of fact.

¶8 Pursuant to Article XII, Section 1, of the Commonwealth Constitution, “[t]he acquisition of permanent and long-term interests in real property within the Commonwealth shall be restricted to persons of Northern Marianas descent.” N.M.I. Const. art. XII, § 1. In 1982, when the transfer of property occurred, a corporation was considered to be a “person of Northern Marianas descent” so long as it: (a) was incorporated in the Commonwealth; (b) had its principal place of business in the Commonwealth; (c) had directors of whom fifty-one percent were persons of Northern Marianas descent; and (d) had voting shares, fifty-one percent of which were issued to persons of Northern Marianas descent. N.M.I. Const. art. XII, § 5 (1978).⁵

¶9 As the trial court found, the evidence shows that RTC satisfied the Article XII criteria at the time of the conveyance: “(a) it was incorporated in the Commonwealth; (b) it had its principal place of business in the Commonwealth; and (c) the requisite percentage of directors and shareholders were of Northern Marianas descent.” Appellant’s Excerpts of Record at 281; Declaration of Charles Jordan, Appellees’ Excerpts of Record at 29-32. Iglesias does not take issue with any of the trial court’s factual conclusions.

¶10 However, Iglesias argues that, although RTC would appear to be a person of Northern Marianas descent, RTC “[w]as, at all times material to this action, a mere sham, organized and operated as the alter-ego of Jack Layne and Roger Gridley for their personal benefit and advantage and for the primary purpose of conducting real estate transactions in violation of Article XII of the Constitution of the Commonwealth of the Northern Mariana Islands.” O.B. at

4. Based on this “alter-ego” or “sham corporation” theory, Iglesias argues that this Court should

⁵ On January 7, 1986, Article XII, Section 5 of the Commonwealth Constitution was amended such that, in order for a corporation to be considered to be a “person of Northern Marianas descent,” in addition to meeting conditions (a) and (b) above, the corporation must: “have directors, one-hundred percent of whom are persons of Northern Marianas descent and have voting shares (i.e. common or preferred) one-hundred percent of which are owned by persons of Northern Marianas descent.” N.M.I. Const. art. XII, § 5 (emphasis added). However, this amendment was not retroactively applied to corporations formed before January 7, 1986 and it is undisputed that this transaction is governed by the 1978 provisions.

set aside the otherwise lawful land transaction. Iglesias does not, however, support this argument with any evidence whatsoever that shows RTC to be a “sham corporation.”

¶11 We will not set aside real estate transactions merely because a non-NMD has furnished money for an otherwise valid transaction. For example, in *Milne v. Estate of Hillblom*, we declined to set aside a real estate transaction where the land-purchasing NMD corporation was alleged to be the “alter ego” of a non-NMD individual. *Milne v. Estate of Hillblom*, 1997 MP 11, 5 N.M.I. 80 *aff’d*, *Milne v. Hillblom*, 165 F.3d 733 (9th Cir. 1999). In *Milne* we held that a non-NMD may lawfully fund an NMD’s land purchases, and that such funding did not result in the non-NMD acquiring an unlawful fee interest in the land, such that the transaction would violate Article XII. *Id.* at ¶¶ 11-12.

¶12 Similarly, this Court does not set aside real estate transactions in cases where an appellant alleges that a “sham corporation” or non-NMD “alter-ego” has acquired an unconstitutional interest in real property, where that claim is not supported by any evidence. In *Dela Cruz v. Hotel Nikko Saipan, Inc.*, 1997 MP 16, 5 N.M.I. 96, appellants argued that a land transfer should be set aside where the buyer corporation was an alleged “sham corporation” or “alter ego” of non-NMDs, to which we responded, “[m]ere allegations (that the corporation is a “sham”) . . . are insufficient.” *Id.* at ¶ 16.

¶13 While it is clear that in the instant case, non-NMDs have been involved in the purchase of land, it is not clear that the non-NMDs’ involvement is in any way unlawful. Iglesias makes no attempt to support his argument that RTC is a sham corporation. He does present this Court a series of facts relating to the nature of RTC’s office space and its lack of paper clips or filing cabinets. However, the facts are presented without explanation as to their legal relevance.⁶ O.B.

⁶ In his Opening Brief, Iglesias presents this Court with a list of “specific facts,” a term which is undefined. Among the “specific facts” Iglesias brings to this Court’s attention are: “Realty Trust Corporation did not have an office.” Appellant’s Opening Brief (“O.B.”) at 5; “Realty Trust Corporation was in the same suite of offices with Gridley Realty in the Nauru Building and Jack Layne’s law office was down the hall.” *Id.*; “Realty Trust Corporation did not own a

at 5. These facts, on their own, do no more than show that RTC is a small corporation that existed to buy and sell real estate. Iglesias has presented this Court with nothing that suggests Gridley or any other non-NMD attempted to circumvent the CNMI's land alienation restrictions.

¶14 Iglesias was admonished by the trial court for presenting this same unsupported "sham corporation" argument below.⁷ Despite the trial court's admonishment – and despite having more than 15 years to construct a cogent argument supporting his contentions - Iglesias has again failed to support his argument with legally relevant facts or with legal arguments.

CONCLUSION

¶15 For the foregoing reasons, we hereby **AFFIRM** the trial court's summary judgment order.

SO ORDERED this 25th day of April 2003.

/s/ _____
MIGUEL S. DEMAPAN, CHIEF JUSTICE

/s/ _____
JOHN A. MANGLONA, ASSOCIATE JUSTICE

/s/ _____
VIRGINIA SABLON OBERHEIM, JUSTICE PRO TEMPORE

filing cabinet, a typewriter, a desk, a chair, a calculator, a stapler, a pencil, or a paper clip." *Id.*

⁷ The trial court stated:

[I]f Plaintiff were to have presented facts demonstrating that RTC was a dummy corporation created only as a business conduit for the actions of the non-NMD individuals who were controlling the transactions from behind the scenes, then the court could have looked behind the legal entity to assess the true relationship between the stockholders and the corporation to determine which stockholders own the assets. Plaintiff, however, has utterly failed to provide any such evidence in this case. Aside from a recitation of factors that could apply to any small corporation, Plaintiff has not provided the court with any authority supporting his conclusion that the "facts" concerning RTC's operation require a conclusion that it was a sham. Nor has Plaintiff bothered to present evidence of facts traditionally considered in determining whether to disregard the corporate status of an entity, despite having had more than *ten years* from the commencement of this action in which to build his case.

Iglesias v. Realty Trust Corp., Civ. No. 88-0704 (N.M.I. Super. Ct. July 21, 2000) (Order Granting Motion for Summary Judgment at 15).