FOR PUBLICATION

APPEAL NO. 02-027-GA

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

MAGDALENA A. FLORES, FRANCISCO A. VILLAGOMEZ, ANECIA A. CABRERA, ERNESTO C. ARRIOLA, ELIZABETH C. ARRIOLA, ANITA C. ARRIOLA, MAXIMO T. ARRIOLA, and JACQUILINA S. ARRIOLA

Plaintiffs-Appellants,

v.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS and DIVISION OF PUBLIC LANDS OF THE DEPARTMENT OF NATURAL RESOURCES,

Defendants-Appellees.

Civil Case No. 00-0320D

OPINION

Cite as: *Flores v. Commonwealth*, 2004 MP 9

Argued and Submitted August 12, 2003
Decided June 8, 2004

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BEFORE: MIGUEL S. DEMAPAN, Chief Justice; MICHAEL J. BORDALLO and FRANCES M. TYDINGCO-GATEWOOD, Justices *Pro Tempore*

DEMAPAN, Chief Justice:

¶1 Appellants Madgalena A. Flores, Francisco A. Villagomez, Anecia A. Cabrera, Ernesto C. Arriola, Elizabeth C. Arriola, Anita C. Arriola, Maximo T. Arriola, and Jacquilina S. Arriola ("Appellants" or "Flores") appeal the trial court's grant of summary judgment to the Commonwealth of the Northern Mariana Islands and Division of Public Lands of the Department of Natural Resources ("Appellees" or "CNMI"). We have jurisdiction pursuant to Article IV, Section 3 of the Constitution of the Commonwealth of the Northern Mariana Islands. We affirm.

ISSUE PRESENTED AND STANDARDS OF REVIEW

¶2 Did the trial court err in granting summary judgment to the CNMI? "A reviewing court will affirm a grant of summary judgment if, viewing the evidence and inferences in favor of the non-moving party, no genuine issue of material fact appears and the moving party was entitled to judgment as a matter of law." *Eurotex (Saipan), Inc. v. Muna,* 4 N.M.I. 280 (1995).

FACTUAL AND PROCEDURAL BACKGROUND

¶3 This case arises out of a Title Determination - or rather, two of them - that occurred during the time of the Trust Territory of the Pacific Islands ("TTPI").

¶4 In September, 1953, a TTPI Title Officer for the Saipan District determined that Joaquin Cabrera Arriola owned two lots of land - Lots 1684 & 1697 - in the area of Saipan that is now called Dan Dan. Less than one year later, in June, 1954, an amended Determination of Ownership was issued, in which it was stated that Lots 1684 & 1697 were not the property of Joaquin Cabrera Arriola ("Arriola").

¶5 During the September, 1953, hearing, Arriola had also claimed title to two different parcels, Lots 1685 and 1696. It was determined that N.K.K. - a Japanese company that owned property on

Saipan during Saipan's Japanese era - owned these two lots. Title then escheated in the Trust Territory Government when the United States became the administrators in the Northern Mariana Islands.

¶6 At the June, 1954, hearing, when Arriola was found not to be the owner of lots 1684 and 1697, Arriola was granted ownership of lots 1685 and 1696. On July 23, 1955, Arriola, in an agreement to exchange part of lot 1685 with Government-owned lot 1661, acknowledged that the Government owned lot 1684. Excerpts of Record ("E.R.") at 94. On February 12, 1958, in a Quit Claim Deed transferring part of lot 1685 to the Government, Arriola again acknowledged that lot 1684 belonged to the Government.

¶7 On August 1, 2000, Flores filed an Amended Complaint in Superior Court seeking a declaration naming Flores owner of Lots 1684 and 1697, as well as damages for trespass and the unlawful use of their property. On August 22, 2000, the CNMI filed its answer. The CNMI moved for summary judgment on February 4, 2002, arguing that res judicata barred Flores' claims. On February 14, 2002, Flores filed an Opposition to Defendant's (CNMI's) Motion for Summary Judgment, and Cross-Motion for Summary Judgment. On February 21, 2002, the CNMI filed its reply. The trial court heard arguments on the motions on March 4, 2002.

¶8 On September 12, 2002, the trial court granted the CNMI's Motion for Summary Judgment and denied the Flores' Cross-Motion for Summary Judgment, holding that res judicata barred the claims. Flores timely appeals.

ANALYSIS

¶9 Flores makes two main arguments in support of her contention that summary judgment was improperly granted. First, Flores argues that the Title Officers for the Saipan District never had the authority to modify their Title Determination, and so the determination divesting Arriola of lots 1684

and 1697 was void when issued and that she is not, therefore, barred by the statute of limitations from bringing these claims. Flores next argues that summary judgment was improper because there is a disagreement about a genuine issue of material fact - whether Arriola received proper notice about the second Title Determination hearing. For reasons discussed below, we do not agree with Flores that summary judgment was improperly granted.

¶10 Flores first argues that the second title determination, which found Arriola not to be the owner of lots 1684 and 1697, was void when issued because the Title Officer had no authority to modify the earlier decision. Therefore, Flores contends, this Court should not find that the applicable statute of limitations - which expired half a century ago - precludes her from bringing this claim for ownership of lots 1684 and 1697.

¶11 Administrative proceedings which are not appealed within the designated time for appeal become final under the principle of administrative res judicata. *In re Estate of Dela Cruz*, 2 N.M.I. 1, 10-11 (1991). The TTPI *Department of Resources and Development, Land & Surveys Division, Office of Land Management, Regulation No. 1,* 1 Trust Territory Reg. 170 (Dec. 15, 1974) ("Regulation No. 1") sets out the procedure by which land claims were to be brought against the TTPI. Section 14 of Regulation No. 1 set the statute of limitations for appeals of title determinations at one year:

> Any person who has or claims an interest in the land concerned may appeal from a District Land Title Officer's determination of ownership to the Trial Division of the High Court at any time within one year from the date that the determination is filed in the office of the Clerk of Courts. The Trial Division of the High Court may set aside, modify, or amend the determination of the District Land Title Officer.

Regulation No. 1, § 14.

¶12 In this case, it is undisputed that the Title Determination was an administrative proceeding which was not appealed within the designated time for appeal. However, Flores argues that the

decision should not be considered res judicata because, she argues, the Title Officer had no authority to modify the first decision. Flores argues:

> In sum, there is no res judicata effect on the Amended Determination of Ownership No. 577 issued on June 9, 1954, because Title Officer Raker [the Title Officer who issued the amended decision] had no authority or jurisdiction to make the reversal of the Determination of Ownership No. 577 issued on September 1, 1953. Such amended determination was void. Therefore, the plaintiffs were within their right to litigate their claim of ownership of Lots 1684 and 1697.

Appellants' Opening Brief ("O.B.") at 10.

¶13 Flores is correct that in the Commonwealth, it is well-settled law that administrative decisions which are void when issued are not considered res judicata. *In Re Estate of Dela Cruz,* 2 N.M.I. 1, 11 (1991). However, she is incorrect when she contends that absent an express grant of authority, the Title Officers had no authority to modify their decisions.

¶14 Flores cites several inapposite cases to support her proposition. None involve factual or legal situations even remotely applicable to the case before us. Nor is there consensus among other courts whether administrative tribunals have the inherent authority to reopen its decisions before those decisions become final. Rather, some courts hold that administrative tribunals may not re-open their decisions without express statutory authority. *See, e.g., Yamada v. Natural Disaster Claims Comm'n,* 513 P.2d 1001 (Haw. 1973). Other courts hold that administrative tribunals have the inherent authority to re-open its decisions absent a statutory limitation on that authority. *See, e.g., Handlon v. Town of Belleville,* 71 A.2d 624 (N.J. 1950); *Confederated Tribes of Warm Springs Reservation v. United States,* 117 Ct. C1. 184 (1966).

¶15 Here, we find that the balance of factors leads us to conclude that the Title Officer's second title determination was not void from its issuance. For one, as discussed above, contrary to Flores' assertions, there is no clear legal authority that would lead us to conclude that the Title Officer did not have the power to modify its decisions before it became final. Second, as the trial court noted

in its decision:

> [Section] 13 of Regulation No. 1 can be interpreted to give title officers some discretion to correct a conveyance that was made in error. The inclusion of the last sentence to § 13 is important as it qualifies the effect of determinations made pursuant to Regulation No. 1. The qualifying language clearly states that while `the legal interest of persons designated as owners shall be shown on the determination of ownership . . . no person can convey better title than he has at the time of the conveyance.'

E.R. at 150. Third, Arriola acknowledged in at least one signed document that the Government, not he, was the owner of lots 1684 and 1697. E.R. at 112. Fourth, as the trial court noted, there is undisputed evidence that Arriola was not the owner of lots 1684 and 1697, rather, that he had leased those plots from N.K.K. E.R. at 68. Finally, we note that unlike in case of *Yamada,* where the appellants were merely stripped of money by a second administrative decision, in this case Arriola was granted two lots of land in the second title determination. Arriola was not merely stripped of property, but rather the Title Officer found that the two lots originally found to be his, were not his, but that two other lots originally found not to be his were, in fact, his.

¶16 Flores next contends that summary judgment was improperly granted because there is a genuine issue of material fact in dispute: whether Arriola had notice of any hearing preceding the second title determination. "In the instant case, the issue of notice would be necessary in the event the court decided that the Amended Determination of Ownership No. 577 was not void." O.B. at 12. Flores' proof of this lack of notice takes two unconvincing forms. There is an affidavit signed by Flores in which she states that: "[t]here was no notice given to my father and our family prior to the issuance of the amended determination nor was there a hearing given to us before and after the amended determination was issued." E.R. at 25. And the same statement is recorded in an identical affidavit signed by Flores' sister, Francisca Arriola Villagomez. E.R. at 29-30.

¶17 However, the second title determination states that the: "[t]itle Officer for the Saipan District

Trust Territory of the Pacific Islands, after due public notice and private notice to all parties as of record, and after public hearings at which all persons claiming an interest in the land described herein were given full opportunity to be heard," found lots 1684 and 1697 belong to the Government, and not to Arriola.

¶18 In arguing that the trial court gave this declaration undue weight, Flores states:

> The court was oblivious of (sic) the fact that the amended determination was on its face from (sic) a pre printed form pre-duplicated for the convenience of the title officers. All that the title officer had to do was to fill in the blanks. Everything else was already in the pre-printed form including the clause in question. The clause therefore has very little weight, if weighing was ever allowed in motions for summary judgment, which it is not.

O.B. at 13. However, Flores' arguments ignore settled law on this subject.

¶19 In *Aldan v. Kaipat*, 794 F.2d 1371 (9th Cir. 1986), the Ninth Circuit faced a situation similar to the one here. A land determination had been made in the early 1950s, and many years later, parties emerged claiming that they had been deprived of due process by that determination. In *Aldan*, the Ninth Circuit held that even with the appellants' insistence that their families had been deprived of notice, there was no basis:

> for doubting the Land Office's declaration that proper public and private notice had been given. The Land Office's proceedings, so far as they are observable in this case, complied with the requirements of due process. The trial court's reliance on them accorded them the weight they ought properly to be expected to have.

Id. at 1372.

¶20 We follow the *Aldan* court in one final - and ultimately conclusive - finding. Even if Flores were correct that the second title determination was void and that Arriola had been deprived of notice, the period during which these claims might have been brought ended over thirty years ago. "The general statute of limitations on actions for the recovery of land requires commencement of the action within twenty years of its accrual, so that even if [the Appellants] had been deprived of

notice in 1953 or 1956 her claim would by now have lapsed." *Id.* at 1372 (citations omitted).

¶21 Pursuant to the operative statute of limitations, 7 CMC § 2502, "[i]f the cause of action first accrued to an ancestor or predecessor of the person who presents the action, or to any other person under whom he or she claims, the 20 years shall be computed from the time when the cause of action first accrued." 7 CMC § 2502(b). Here, if there ever was a cause of action, it accrued in 1955 when the second title determination became final. Flores, then, is thirty years too late in bringing this case.

CONCLUSION

¶22 For the above reasons, we hereby AFFIRM the trial court's grant of summary judgment.

SO ORDERED this 8th day of June 2004.

/s/_____
MIGUEL S. DEMAPAN, Chief Justice

/s/_____
FRANCES M. TYDINGCO-GATEWOOD, Justice *Pro Tempore*

/s/_____
MICHAEL J. BORDALLO, Justice *Pro Tempore*