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

IN RE THE ESTATE OF MARIA CEPEDA RIOS,
Deceased.

SUPREME COURT NO. CV-06-0027-GA
SUPERIOR COURT NO. 89-1144

Cite as: 2008 MP 5

Decided April 4, 2008

Vicente T. Salas, Saipan, Northern Mariana Islands, for Appellant.
Joseph E. Horey, Saipan, Northern Mariana Islands, for Appellee.

BEFORE: MIGUEL S. DEMAPAN, Chief Justice; JOHN A. MANGLONA, Associate Justice; HERBERT D. SOLL, Justice Pro Tem

MANGLONA, J:

¶ 1 Jesus Iglesias Sablan ("appellant"), the estate administrator, appeals the trial court's order distributing Maria Cepeda Rios' ("decedent") property to Vicente D. Ada ("appellee"). We find that: (1) the laches doctrine is inapplicable and the claim of inheritance by Maria Dela Cruz Iglesias' heirs should not have been barred; (2) the probate code does not require heirs to come forward with inheritance claims until after the trial court conducts an heirship proceeding; (3) in a probate proceeding, the trial court is not barred from subsequently adjudicating decedent's rightful heirs; and (4) Maria Iglesias, as decedent's sole heir under to the Chamorro custom of poksai, is entitled to decedent's property. We, therefore, REVERSE the trial court's decision and this case is REMANDED to the trial court for proceedings consistent with this opinion.

I

¶ 2 On December 8, 1867, decedent was born on Saipan. *See* Appendix A. Decedent married Francisco Rios and their marriage produced no children. Decedent had three sisters, Regina, Ana, and Emelia, and one brother, Luis Cruz Cepeda. Ana married Juan Ada ("Juan"). Their son, Vicente Cepeda Ada ("Vicente") married Dolores Diaz, and they had a son, Vicente D. Ada, the appellee.[1] On January 3, 1890, Maria Iglesias was born. The trial court determined that decedent adopted Maria Iglesias through the Chamorro custom of "poksai,"[2] and that decedent raised Maria Iglesias as "pineksai."[3] Appellant's Excerpts of Record ("ER") at 6 ¶¶ 11-12. Maria Iglesias married Jose Iglesias and had eleven children. Rosa Sablan, a daughter of Maria Iglesias and Jose Iglesias, stated that decedent lived in the same house as Maria Iglesias "because [decedent] was the one that 'poksai-ed,' that raised her and that she was still a young girl when [decedent and Francisco Rios] had asked for her to be her child." *Id.* at 6 ¶ 13. Decedent died intestate on June 30, 1944. At the time of her death, decedent lived with Maria Iglesias.

¶ 3 A land document from 1941 indicates decedent as the owner of Lot 1764, the Saipan land at issue. On January 29, 1945, Juan filed a statement of death or disappearance of owner or lessee, indicating that decedent was the owner of Lot 1764. On February 13, 1948, Juan filed a report, which stated that decedent was the last owner of Lot 1764 when she died in 1944. Most

---

[1] Appellee is Juan's grandson. Appellee was born on January 24, 1932.

[2] "Poksai" is a Chamorro custom involving the raising or nurturing of a child by an adult or adults other than the child's biological parents. *In re Estate of Ayuyu*, 1996 MP 19 ¶5.

[3] "Pineksai" is a person raised or being raised under "poksai." *In re Macaranas*, 2003 MP 11 ¶ 4 n.4.

importantly, on October 8, 1953, a land title officer issued an ownership determination for Lot 1764, which provided that the property belonged to decedent's heirs, represented by Juan as the land trustee for his son Vicente.

¶ 4 On March 24, 1975, Maria Iglesias died. In 1982, Rosa Sablan, Cosolacion I. De Leon Guerrero, Petra Iglesias Macaranas, and Eugenia Iglesias Nauta (collectively "Maria's heirs") filed a petition with various government agencies seeking ownership of Lot 1764. Later that year, Maria's heirs attempted to register Lot 1764 with the Land Commission Office. Registering Lot 1764 prompted appellee to file a civil suit against Maria's heirs in the trial court claiming he was the owner of Lot 1764. This suit was never litigated to final resolution.

¶ 5 In 1989, appellee filed the instant probate case in the trial court and in June 1990, the trial court entered a decree of final distribution in appellee's favor. Maria's heirs filed a civil action in the trial court against appellee to set aside the final distribution decree and quiet title in Lot 1764. The parties eventually stipulated to an order that set aside the 1990 final distribution decree and reopened the probate case. The parties hoped to determine the heirs of decedent's estate and how to distribute the estate's property. Appellant served as estate administrator.

¶ 6 In June 1996, appellant filed a notice in the trial court to show the Chamorro customary adoption of poksai.[4] In February 2004, the trial court issued its findings of fact and conclusions of law, which determined that decedent adopted Maria Iglesias through the Chamorro custom of poksai, and that decedent raised Maria Iglesias as pineksai. Appellant's ER at 6 ¶¶ 11-12. In May 2006, the trial court issued its final distribution order, holding that the doctrine of laches barred the claims of Maria's heirs and distributed decedent's property to appellee. Appellant appeals this order.

II

¶ 7 The standard of review for laches in the Commonwealth has varied over time. We previously stated that laches presents a mixed question of law and fact and is reviewed de novo. *Rosario v. Camacho*, 2001 MP 3 ¶ 55. We have also characterized laches as strictly a question of law reviewed de novo. *Santos v. Santos*, 3 NMI 39, 46 (1992). Prior to our holdings, the United States District Court for the Northern Mariana Islands characterized laches as a finding of fact, subject to the trial court's discretion, "which cannot be disturbed unless it is shown to be clearly erroneous so as to amount to an abuse of discretion." *Palacios v. Trust Territory of the Pacific Islands*, 2 C.R. 904, 908 (Dist. Ct. App. Div. 1986). In accordance with the District Court, the High Court of the Trust Territory of the Pacific Islands held that, "[w]hether laches applies to a

[4] On the same day, appellant filed a petition for decree of final distribution. Appellant took no further action on this petition until September 21, 2001, when he filed a notice of evidentiary hearing.

given case depends upon the circumstances of the particular case and is a question primarily addressed to the discretion of the Trial Court." *Rabauliman v. Matagolai*, 7 T.T.R. 424, 425 (High Ct. App. Div. 1976); *see Nanmwarki v. Etscheit Family*, 8 T.T.R. 287, 291 (High Ct. App. Div. 1982); *see also Pwalendin v. Ehmel*, 8 T.T.R. 548, 553 (High Ct. App. Div. 1986) ("The issue of laches turns on the circumstances of a given case and it is best left to the trial court's discretion.").

¶ 8 These varying opinions created confusion regarding the appropriate standard of review applicable to laches. We now reiterate that "[w]e review de novo whether laches is available as a matter of law and for an abuse of discretion the [trial] court's decision whether to apply laches to the facts." *O'Donnell v. Vencor, Inc.*, 466 F.3d 1104, 1109 (9th Cir. 2006).[5] This standard comports with the equitable nature of laches, *In re Beaty*, 306 F.3d 914, 921 (9th Cir. 2002). The United States Supreme Court previously employed such a standard. *See Burnett v. New York Cent. R.R. Co.*, 380 U.S. 424, 435 (1965) (determining that whether laches bars an action depends upon the circumstances of that case and is a question left to the trial court's discretion). [6]

III

Laches

¶ 9 Appellant maintains that the trial court erroneously applied laches to bar the claims of Maria's heirs. "Laches is defined as 'the neglect or delay in bringing suit to remedy an alleged wrong, which taken together with lapse of time and other circumstances, causes prejudice to the adverse party and operates as an equitable bar.'" *Bank of Saipan v. Martens*, 2007 MP 5 ¶ 7 (quoting *Rios v. Marianas Pub. Land Corp.*, 3 NMI 512, 523-24 (1993)). "The burden of proving laches always rests with the party claiming its existence." *Id.* ¶ 8. To successfully establish laches, appellee must show the following factors: (1) inexcusable delay in the assertion of a known right; and (2) the party asserting laches was prejudiced. *See id.* ¶ 7.

¶ 10 Finding laches is not an arbitrary and unjust punishment. Rather, it is rooted in presumptions of appropriate human behavior. "The owners of property, especially if it [is]

---

[5] Other circuit courts use this standard. *See Brown-Mitchell v. Kansas City Power & Light Co.*, 267 F.3d 825, 827 (8th Cir. 2001) ("The determination of whether laches applies in the present case was a matter within the sound discretion of the district court, and we, accordingly, review the district court's application of laches for an abuse of discretion."); *Holmes v. Pension Plan of Bethlehem Steel Corp.*, 213 F.3d 124, 134 (3d Cir. 2000) (stating that the decision to apply laches is left to the trial court's sound discretion and appellate review is limited to a review for abuse of discretion); *A.C. Auckerman Co. v. R.L. Chaides Constr. Co.*, 960 F.2d 1020, 1039 (Fed. Cir. 1992) (en banc) (declaring that an appellate court reviews a lower court's laches determination for abuse of discretion); *see also City of Wyandotte v. Consol. Rail Corp.*, 262 F.3d 581, 589 (6th Cir. 2001); *Sanders v. Dooly County*, 245 F.3d 1289, 1291 (11th Cir. 2001).

[6] The *Rabaulimani*, 7 T.T.R. 424, court cited *Burnett* in reaching its determination.

valuable and available, do not often allow it to remain in the quiet and unquestioned enjoyment of others. Such a course is not in accordance with the ordinary conduct of [people]. When, therefore, possession and use are long continued, they create a presumption of lawful origin . . . ." *Naoro v. Inekis*, 2 T.T.R. 232, 237 (High Ct. Trial Div. 1961) (quotation omitted).

¶ 11 The trial court found that Maria's heirs' claim "began to accrue in 1953" when they were put on "notice of a finding adverse to their interests." Appellant's ER at 9 ¶¶ 6-7. The trial court made such a finding because it held that in 1953 a land title officer determined "that the property was that of the Decedent as represented by Juan M. Ada, as the land trustee for his son, Vicente [sic] D. Ada." *Id.* at 9 ¶ 5. According to the trial court, it was not until 1982 that Maria's heirs filed a protest against that determination. *Id.* at 9 ¶ 6. In holding that laches applied to bar the claims of her heirs, the trial court concluded that the twenty-nine year period of delay in pursuing a claim was unreasonable and inexcusable.

¶ 12 The trial court, however, misquoted the 1953 land ownership determination. The land title officer wrote that Lot 1764 belonged to "*the heirs of Maria Rios Cepeda* [sic], represented by Juan M. Ada as land trustee for his son Vicente D. Ada." Appellee's Supplemental ER, Ex. W at 25 (emphasis added). The trial court failed to consider the words "the heirs of" and instead stated "that the property was that of the Decedent." Appellant's ER at 9 ¶ 5. The title officer's language neither indicates that Lot 1764 belongs to appellee alone, nor does the title officer hold that appellee is decedent's sole heir. Maria's heirs, therefore, were not put on notice in 1953 as the trial court believed.[7] *See White v. Daniel*, 909 F.2d 99, 103 (4th Cir. 1990) ("An inexcusable or unreasonable delay may occur only after the plaintiff discovers or with reasonable diligence could have discovered the facts giving rise to his cause of action."). As such, the trial court's finding of laches was in error.

¶ 13 Regardless, appellee still has the burden of proving laches and showing that there was inexcusable delay in the assertion of a known right. In *Rosario*, 2001 MP 3 ¶ 51, we determined that laches was inapplicable to plaintiff's claim in a subsequent and independent action to recover land, notwithstanding plaintiff's failure to bring her claim before an earlier probate proceeding involving the same property. Plaintiff's claim to ownership was based on a deed giving her the property which was not presented to the probate court. *Id.* As a result, this Court held that plaintiff was not required to come forward with her claim during the probate proceeding and laches, therefore, did not bar the subsequent action. *Id.* ¶ 58.

---

[7] Appellee also asserts that the title determination bars Maria's heirs through administrative res judicata. Administrative res judicata bars unappealed title determinations. *Flores v. Commonwealth*, 2004 MP 9 ¶¶ 11-12. For the reasons outlined above, appellee's assertion fails.

¶ 14 Similarly, Maria's heirs were not required to come forward with their inheritance claim until the hearing on the determination of decedent's heirs. Appellee fails to show inexcusable delay because the probate code does not require Maria's heirs to come forward with their inheritance claims until the trial court holds the heirship proceeding. Using this Court's holding in *Piteg v. Piteg*, 2000 MP 3 ¶ 27, we held that plaintiff was not required to come forward with her claim during the probate proceeding and laches, therefore, did not bar the subsequent action. *Del Rosario v. Camacho*, 2001 MP 3 ¶ 58. Since there was no prejudice resulting from a delay in the assertion of a known right, the second element of the laches defense is not met. *See In re Estate of Leon Guerrero*, 3 NMI 253, 265 (1992) ("Since the heirship claim was filed promptly, no damage to the estate or the other claimants or heirs has resulted."). Accordingly, laches is inapplicable and the trial court erroneously barred Maria's heirs' claim of inheritance.

Statute of Limitations

¶ 15 Appellant argues that the trial court erred in applying the statute of limitations for recovery of land as a guide to applying laches to bar the claims of Maria's heirs. Specifically, appellant argues that Maria's heirs' claim of customary adoption is an heirship claim under probate proceedings rather than an action for the recovery of land, and for this reason, the statute of limitations does not apply. In the Commonwealth, an action for the recovery of land has a twenty-year statute of limitations. 7 CMC § 2502. Ordinarily, "[t]here is a presumption of laches where the statute of limitations has run." *Rios*, 3 NMI at 524. Using the twenty-year statute of limitations for the recovery of land in 7 CMC § 2502, the trial court concluded that laches applied as an equitable bar to the claims of Maria's heirs on the issue of customary adoption and its effect on ownership of decedent's property.

¶ 16 However, the evidentiary hearing in this case did not concern the recovery of land. Rather, it was a probate proceeding to determine decedent's heirs. The Commonwealth Code does not state that land ownership claims must commence within twenty years as it does for actions for the recovery of land. *See* 7 CMC § 2502. Even if the evidentiary hearing was based on a claim of land ownership, after the trial court determined that decedent raised Maria Iglesias as her child through the Chamorro custom of poksai, the trial court no longer faced an action for the recovery of land between opposing claimants. Instead, the action dealt with ownership rights pertaining to the heirs of decedent's estate.

¶ 17 Laches and statute of limitations, however, are two different issues. The laches defense may be valid regardless of the applicability of a statute of limitations. *See Palacios v. Commonwealth*, 1 C.R. 657, 672, 676 (Dist. Ct. App. Div. 1983) (holding statute of limitations defense unavailable, but remanding for consideration of laches). Nevertheless, because this case

is not an action for the recovery of land, the trial court erroneously applied laches against the claim of customary adoption. Unlike other jurisdictions, our probate code contains no statute of limitations on probate actions. *In re Estate of Aldan*, 2 NMI 288, 297 (1991). "Estates of people who died twenty, thirty, and forty years ago may be probated at any time." *Id.* More importantly, we have suggested that inheritance rights are not cut off prior to the filing of a probate case. *See id.* at 297-98.

¶ 18 The instant probate case was filed in 1989. In 1993, the parties stipulated to an order to reopen the case, dismissed the previous 1990 final decree order, and appointed a new administrator. In 1996, the administrator filed a notice of intent to prove the customary adoption of poksai took place. Neither the limitation of action contained in 7 CMC § 2502, nor the laches defense bars Maria's heirs' claim of inheritance under these facts.[8]

Decedent's Heirs

¶ 19 Appellant also asserts that in a probate proceeding, the trial court has the jurisdiction to adjudicate rightful heirs. In the present case, decedent died intestate in 1944 as the owner of Lot 1764. In 1953, the government determined that Lot 1764 was the property of decedent's heirs, represented by Juan, as land trustee for his son Vicente. From this language, it is clear that the property belongs to decedent's heirs. However, "[i]n order to determine who is an heir, one's parental lineage must first be established." *Guerrero*, 3 NMI at 261.

¶ 20 The Commonwealth Probate Code, 8 CMC § 2101 *et seq.*, does not apply in the instant case to claims of inheritance because it did not become effective until February 14, 1984, which was after decedent's death. 8 CMC § 2102. In its absence, pursuant to 8 CMC § 2102:

> [W]e look at Title 13 of the Trust Territory Code — the Trust Territory statute that applied at the time of [decedent's] death. Title 13, however, relates only to wills. It does not provide any procedural or substantive law governing intestate succession. However, 1 TTC § 102 mandates: "The customs of the inhabitants of the Trust Territory . . . shall be preserved. The recognized customary law . . . shall have the full force and effect of law . . . ."

In re Estate of Cabrera, 2 NMI 195, 203-04 (1991). Thus, we examine Chamorro customary law existing at the time of decedent's death to see if customary law governs the disposition of the estate. *Id.* at 205.

---

[8] Appellee cites a number of cases for the proposition that laches applies to land title claims regardless of the procedural guise in which the issue is presented, such as, *inter alia*, constitutional claims and paternity proceedings. Appellee claims there is no reason to deny a laches defense when found in conjunction with a probate proceeding. Appellee, however, fails to cite any authority for such a proposition.

¶ 21 At the time of decedent's death in 1944, Chamorro custom dictated that family land holdings were divided at each successive generation. Alexander Spoeher, Saipan: The Ethnology of a War-Devastated Island 104 (NMI Division of Historic Preservation 2d ed. 2000) (1954). An adopted child's claim to inheritance was paramount to the claims of the deceased's siblings. *Id.* at 110. "[C]hildren who are adopted 'pursuant to custom' inherit from their adoptive parent's estate as would the parent's natural child (or 'issue')." *In re Macaranas*, 2003 MP 11 ¶ 7. As we previously made clear, "customary adopted children are the 'children' of their adoptive parent for purposes of intestate succession." *Id.*

¶ 22 Here, appellee is Juan's grandson. *See* Appendix A. He is decedent's grandnephew. Appellee only has a claim of inheritance to decedent's estate if decedent did not have any children. In other words, appellee only has a claim if decedent did not have direct descendants. The trial court found that decedent raised Maria Iglesias as pineksai, and that decedent adopted Maria Iglesias through the Chamorro custom of poksai. Appellant's ER at 6 ¶¶ 11-12. However, the trial court also stated that it "need not turn to a determination of the issue relating to the establishment of the poksai relationship" which purportedly existed between decedent and Maria Iglesias. *Id.* at 11 ¶ 14. The trial court's finding of customary adoption involves a question of fact, which we review to determine if it is clearly erroneous. *In re Estate of Rofag*, 2 NMI 18, 30 (1991). After a three-day trial, Maria's heirs presented six witnesses and substantial evidence that the trial court used to determine that decedent adopted Maria Iglesias through the Chamorro customary adoption of poksai. Appellant's Opening Brief at 4 ¶ 2. Based on the record and our analysis above we cannot say that the trial court clearly erred in determining that decedent adopted Maria Iglesias through the Chamorro customary adoption of poksai. If the heirship proceeding yielded no natural or adopted children, decedent's heirs would be her siblings' heirs, as represented by appellee. However, Maria Iglesias was decedent's sole heir as her adopted daughter. Therefore, as the lineal descendent of Maria Iglesias, appellant takes her inheritance. [9]

IV

[9] Appellee argues that there might be varying degrees of pineksai. In *In re Macaranas*, we stated that, "there may be different types of poksai, some of which involve raising a pineksai as a natural and legitimate child, and some of which may involve raising a pineksai in some other way." *Macaranas*, 3 MP at ¶ 16. The trial court determined that decedent raised Maria Iglesias as pineksai, and that decedent adopted Maria Iglesias through the Chamorro custom of poksai. Appellant's ER at 6 ¶¶ 11-12. The trial court's finding of customary adoption involves a question of fact, which we review to determine if it is clearly erroneous. *In re Estate of Rofag*, 2 NMI 18, 30 (1991). Based on the record and our analysis above we cannot say that the trial court was clearly erroneous in making this determination. There is substantial evidence supporting the trial court's finding. Accordingly, we decline to remand this specific issue to the trial court.

¶ 23 We hold that (1) laches is inapplicable and the trial court erroneously barred Maria's heirs' claim of inheritance; (2) the probate code does not require heirs to come forward with inheritance claims until after the trial court holds an heirship proceeding; (3) in a probate proceeding, the trial court is not barred from subsequently adjudicating decedent's rightful heirs; and (4) Maria Iglesias, as decedent's sole heir, pursuant to the Chamorro custom of poksai, is entitled to take decedent's property. Accordingly, we REVERSE the trial court's decision and REMAND for proceedings consistent with this opinion.

Concurring:
Demapan, C.J., Soll, J.P.T.

Appendix A

Maria Cepeda Rios' Lineal Descendants