

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

ARTHUR B. CAMACHO as Guardian for **CLARISSA B. CAMACHO** and **ARTHUR B. CAMACHO**,
Plaintiffs-Appellants,

v.

MICRONESIAN DEVELOPMENT COMPANY, INC. and **MARIANAS PUBLIC LANDS AUTHORITY, CNMI Public Corporations**,
Defendants-Appellees.

SUPREME COURT NO. CV-03-0032-GA
SUPERIOR COURT NO. 03-0120

Cite as: 2008 MP 8

Decided April 11, 2008

Robert T. Torres, Saipan, Northern Mariana Islands, for Plaintiff-Appellants.
David W. Lochaby, Saipan, Northern Mariana Islands, for Defendant-Appellant MPLA.
Gregory J. Koebel, Saipan, Northern Mariana Islands, for Defendant-Appellant MDC.

BEFORE: ALEXANDRO C. CASTRO, Associate Justice; JESUS C. BORJA, Justice Pro Tem; ROBERT J. TORRES, JR., Justice Pro Tem

CASTRO, J.:

¶ 1 Arthur B. Camacho (“Arthur Camacho”), both individually and as guardian for Clarissa B. Camacho (“Clarissa Camacho”) (collectively “the Camachos”), appeals the trial court’s dismissal of his suit against the Micronesian Development Company (“MDC”) and the Marianas Public Lands Authority (“MPLA”)¹ for failure to state a cause of action.² Because the trial court failed to address a number of relevant factual determinations, we conclude that it erred in dismissing the suit. We therefore REVERSE the decision of the trial court and REMAND the case for further proceedings.

I

¶ 2 This lawsuit involves two private parties and a government agency. The parties dispute the ownership of a piece of property on Tinian. Bruno R. Torres (“Torres”), the Camachos’ predecessor in interest to Lot 143 T 01 (the “property”), was issued a permit to homestead the property on March 31, 1964, a certificate of compliance on September 18, 1972, and a quitclaim deed to the property on October 19, 1972. On July 11, 1965, the government of the Trust Territory of the Pacific Islands (“Trust Territory”) leased a 7,500-acre parcel of land (the “leasehold”) to MDC for a period of twenty years. The leasehold contained all or part of the property within its 7,500 acres. Neither the Trust Territory government nor MDC recorded the original lease.

¶ 3 Years later, Torres sold the property to Maria O. Dela Cruz (“Dela Cruz”). Dela Cruz applied to register the land and, on April 13, 1973, received a determination from the Mariana Islands District Land Commission that the land belonged to her in fee simple. Subsequently, Dela Cruz pledged the property as collateral for a loan from Antonio R. Camacho (“Antonio Camacho”). Dela Cruz’s failure to repay the loan transferred the property into Antonio Camacho’s possession in 1973.

¶ 4 Mariana Islands District Administrator Francisco C. Ada (“Ada”) became aware of the leasehold’s encroachment onto the property in 1975, and recommended that the leasehold be

¹ After this appeal, the Commonwealth Legislature replaced MPLA with the Department of Public Lands.

² At oral arguments, the issue arose of whether MPLA was properly a party to this appeal and should be permitted to argue before this Court. While we elected to consider this matter during deliberations, the Court allowed MPLA to speak in the interest of efficiency and judicial economy, with the understanding that its arguments might later be excluded from consideration. Because MPLA’s arguments would not affect the conclusion reached by this Court were they to be taken into account, we need not determine if they should be considered.

amended to exclude the property. Additionally, Ada determined that the property's certificate of title did not mention the leasehold.

¶ 5 In 1979, after the formation of the Commonwealth of the Northern Mariana Islands, the Marianas Public Land Corporation ("MPLC"), which replaced the Trust Territory government as the agency responsible for public lands, granted an extension of the leasehold (the "leasehold extension") to MDC, which extended MDC's lease through 1995. The leasehold extension contained no amendment regarding the property. The leasehold extension was, however, recorded with the Northern Marianas Land Registry on October 19, 1979.

¶ 6 On February 6, 1981, the Commonwealth issued a fee simple certificate of title for the property to Antonio Camacho, which contained no mention of the leasehold or leasehold extension. In 1982, Antonio Camacho died intestate and a portion of the property went to Clarissa Camacho. Arthur Camacho ultimately obtained the remainder of the property not owned by Clarissa Camacho, and claims that he discovered the encroachment of the leasehold in March 1996. Arthur Camacho brought suit against both MPLA and MDC for trespass and unconstitutional taking.

¶ 7 The trial court determined, and the parties agreed, that a twenty-year statute of limitations applied to the Camachos' claim. The trial court relied on this Court's decision in *Rios v. Marianas Pub. Land Corp.*, which holds "that the statute of limitations does not commence to run against the right to recover possession of real property until the cause of action accrues." *Camacho v. Micronesian Development Company*, Civ. No. 03-0120 (NMI Super. Ct. Sept. 12, 2003) (Order Granting Motion to Dismiss at 3) (quoting *Rios*, 3 NMI 512, 522 (1993)).³ The trial court determined that the cause of action accrued either in 1965, when the Trust Territory leased the property to MDC, or in October 1979, when the lease extension was filed with the Northern Mariana Lands Registry, and that, under either scenario, the statute of limitations had expired. *Id.* at 4. The trial court further held that the cause of action did not begin to accrue at the time that Arthur Camacho allegedly discovered the encroachment in March 1996, because "the discovery rule, that . . . the statute begins to run when the injured individual first learns of the injury, does not apply in real property cases." *Id.* at 3. The trial court ascertained that the necessary elements of adverse possession were present with regard to the lease entered into by MDC and MPLA. *Id.* It also held that "[e]ven though the [Camachos] will have the property returned to them in 2008,

³ The trial court cites this quotation as appearing at 3 NMI at 532. The actual quotation is at 3 NMI at 522.

the lease is in fact analogous to an adverse lease/possession situation.”⁴ *Id.* Consequently, the trial court dismissed the Camachos’ complaint for failure to state a cause of action.

II

¶ 8 On appeal, Arthur Camacho argues that the trial court prematurely dismissed the Camachos’ complaint and did not allow him to argue facts necessary to prove their case. The trial court dismissed the Camachos’ claims against both MPLA and MDC even though MPLA filed an answer in this action. We review de novo an order dismissing a claim under Rule 12(b)(6). *In re Estate of Roberto*, 2002 MP 23 ¶ 4.

¶ 9 As a general matter, it is possible to adversely possess land by leasing it to others. *See Lusk v. City of Yankton*, 168 N.W. 375, 376 (S.D. 1918); *contra Harlow v. Giles*, 132 S.W.3d 641, 648 (Tex. App. 2004). However, the standard to prove adverse possession is clear and convincing evidence. *Smith v. Krebs*, 768 P.2d 124, 125 (Alaska 1989); *Hoffman v. Freeman Land and Timber*, 994 P.2d 106, 109 (Or. 1999). Proving adverse possession by clear and convincing evidence is not feasible in a hearing on a motion to dismiss for failure to state a claim because such a motion does not allow the parties to argue disputed facts. *See Govendo v. Micronesian Garment Mfg., Inc.*, 2 NMI 270, 283 (1991). Furthermore, the trial court made no findings on this particular issue.

¶ 10 Rule 12(b)(6) of the Commonwealth Rules of Civil Procedure allows a party to seek dismissal of a claim if the claimant fails to state a claim upon which relief can be granted. Under Rule 12(b)(6), “[d]ismissal is improper unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” *Govendo*, 2 NMI at 283. Factual argument is inappropriate in a Rule 12(b)(6) motion because the motion only tests the legal sufficiency of the complaint. Thus, in undertaking its analysis, “the court must accept the allegations in the complaint as true and construe them in the light most favorable to the plaintiff.” *Id.* The trial court’s decision does not conform to this rule.

¶ 11 Because this action is for the recovery of land, the trial court, MDC, MPLA, and the Camachos have all touched upon, in one way or another, the doctrine of adverse possession. In its ruling, the trial court held that “[t]he essential nature of [the Camachos’ lawsuit] is analogous to an adverse possession situation.” *Camacho*, Civ. No. 03-0120 (Order Granting Motion to Dismiss at 3). The trial court went on to hold that “[a]dverse possession must be ‘actual, open, visible, notorious, continuous and hostile,’” *id.* (quoting *Apatang v. Mundo*, 4 NMI 90, 92

⁴ The trial court uses the term “adverse lease/possession” in its opinion. *Camacho*, Civ. No. 03-0120 (Order Granting Motion to Dismiss at 3). There is no concept of “adverse leasing” in Commonwealth law.

(1994)),⁵ and that “[t]hese elements all appear to be present with regard to the lease entered into by MDC and MPLA.” *Id.*

¶ 12 Whether the elements of adverse possession are satisfied in a particular case requires factual findings that cannot be accomplished in a Rule 12(b)(6) motion. The trial court must address the crucial question of who owns the land. The trial court’s decision cuts off the Camachos’ remedy by making a factual finding that requires clear and convincing evidence. *See Smith*, 768 P.2d at 125; *Hoffman*, 994 P.2d at 106. While the trial court asserts that the Camachos will have the property returned to them in 2008, it analogizes the lease to an “adverse lease/possession situation.” *Camacho*, Civ. No. 03-0120 (Order Granting Motion to Dismiss at 3). However, there has not even been a factual finding that MDC, which filed the motion to dismiss, is the adverse lessor/possessor. From the ruling it is impossible to ascertain who the current owner of the property is. The order is not clear whether MDC’s status as tenant is sufficiently hostile or if MPLA’s use of an unauthorized lease is hostile enough to adversely possess the property. The order is also unclear whether MDC’s claim is sufficient to strip the Camachos’ title. If not, it is further unanswered whether MDC’s and MPLA’s combined claims are sufficient to strip the title from the Camachos, or if both claims are insufficient to strip it. These issues all involve questions of fact that the trial court needs to determine before dismissing the case for failure to state a claim.

¶ 13 This “adverse lease/possession situation,” *id.*, supposedly allows MPLA to rent property it does not own to a lessee until the end of the leasehold. Such a proposition is not supported in law. The crucial question in this case turns on ownership of the property. Without a ruling as to whether actual adverse possession took place, it is impossible to tell who owns the property, or to determine the respective parties’ rights.

¶ 14 If the Camachos, as the trial court appears to insinuate, retained ownership even though the property is currently leased to MDC, then MPLA is both leasing land that it has no right to lease and receiving rental payments that it is not entitled to collect. This situation begs the question of why the Camachos are not entitled to a portion of both future and past lease payments.

¶ 15 While the trial court and the parties agree that this case involves the twenty-year statute of limitations imposed by 7 CMC § 2502, the trial court’s dismissal is nonetheless premature. While this is a suit to quiet title, if MPLA or MDC have not adversely possessed the land, then the Camachos are the actual owners.

⁵ The trial court cites this quotation as appearing at 4 NMI at 93. The actual quotation is at 4 NMI at 92.

¶ 16 As noted above, factual determinations may not be made in a Rule 12(b)(6) motion. *Govendo*, 2 NMI at 283. In the present case, the trial court appeared to understand that the property would be returned to the Camachos in 2008, but dismissed the case because MDC adversely leased/possessed the land. This is a fact-based ruling with no findings of fact supporting it. Additionally, the trial court failed to cite case law supporting its adverse/lease possession holding or any case law holding that a non-adverse lessee may adversely possess property. In other words, MDC's lease is not adverse to MPLA, just to the Camachos. There is no evidence that MDC ever attempted to adversely possess the property; there is only evidence that MDC wished to lease it from the landlord. In this case, MDC was apparently mistaken as to the identity of the landlord. Indeed, the trial court even states that the property will revert to the Camachos in 2008. However, all of these factual determinations are premature at this stage of the lawsuit. Accordingly, the trial court's decision to dismiss the case without making these determinations is also premature.

III

¶ 17 On a motion for dismissal for failure to state a claim, the trial court is required to view all facts in favor of the non-moving party whose claim is at issue and determine if there is any legal basis for their complaint. The trial court instead granted the motion to dismiss even though a number of disputed determinative factual matters were not addressed, including who actually owns the property and whether MDC or MPLA actually took the property through adverse possession.

¶ 18 For the foregoing reasons, we hold that the trial court erred in dismissing the Camachos' claim for failure to state a cause of action. Accordingly, we REVERSE the decision of the trial court and REMAND the case for further proceedings consistent with this opinion.

Concurred:
Borja, J.P.T., Torres, J.P.T.