

**NGIRUDELSANG, Appellant**  
v.  
**TRUST TERRITORY OF THE PACIFIC ISLANDS, and**  
**JOSEPH C. PUTNAM, its Alien Property Custodian, Appellees**

Civil Action No. 79  
Trial Division of the High Court  
Palau District  
September 24, 1958

Action to determine ownership of land on Koror Island, in which plaintiff claims as owner of land taken by Japanese Government for public use in 1919 without consent or payment of compensation. On appeal from District Land Title Determination, the Trial Division of the High Court, Associate Justice Philip R. Toomin, held that there are no valid legal or equitable grounds for dispossessing Trust Territory Government of ownership of land in view of interval of time elapsed since plaintiff was wrongfully deprived of title by former government.

Affirmed.

**1. Former Administrations—Redress of Prior Wrongs**

There is no valid legal or equitable ground for dispossessing Trust Territory Government of ownership and use of property when long interval of time has elapsed since party was wrongfully deprived of his title thereto by former government.

**2. Former Administrations—Redress of Prior Wrongs**

There is no legal basis upon which sovereign power can be required to right ancient wrongs committed by prior power before cession or conquest of lands involved.

**3. Former Administrations—Redress of Prior Wrongs—Exception to Applicable Doctrine**

Only recognized exception to doctrine regarding righting of ancient wrongs of former power is in case where wrong occurred so closely to time of change of government so as to have afforded aggrieved party no opportunity to obtain redress in courts.

**4. Former Administrations—Taking of Private Property by Japanese Government—Limitations**

Where taking of property by Japanese Government occurred in 1919, exception to doctrine regarding righting of ancient wrongs is not applicable.

**5. Former Administrations—Taking of Private Property by Japanese Government—Limitations**

Until Trust Territory Government opens door to claims for redress of wrongs originating as far back as 1919, court may not restore what legislative branch has not sanctioned.

NGIRUDELSANG v. TRUST TERRITORY

<i>Assessor:</i>	JUDGE PABLO RINGANG
<i>Interpreter:</i>	ANTHONY H. POLLOI
<i>Counsel for Appellee:</i>	ROSCOE L. EDWARDS, ESQ.
<i>Counsel for Appellant:</i>	ALFRED J. GERGELY, ESQ.

TOOMIN, *Associate Justice*

OPINION

This is an appeal from a Determination of Ownership filed by the District Land Title Officer of Palau District, after a hearing pursuant to Office of Land Management Regulation No. 1. The Land Title Officer ruled adversely upon the claim filed by appellant to ownership of certain lands in Palau District and instead, released the lands to appellees.

By stipulation of the parties, the record made in the hearing before the Land Title Office has been received in evidence on appeal, including within it the testimony and exhibits offered and received in evidence, and the findings of fact and conclusions of the Title Officer. No other evidence has been offered by the parties upon this appeal, but the court had heard legal argument on the record so made.

From an examination of the said record and upon consideration of the understanding and agreements contained in a certain Memorandum of Pre-Trial Conference and Order in Relation Thereto, entered and filed in this proceeding, the following appear as the pertinent and material facts to be considered by the court.

The tract in question known as Ongalibel consists of 63, 724 sq. ft. and is located on Koror Island, Palau District. Prior to Japanese times, it was owned by appellant's father as Chief's private lands. As such it was given to appellant as his own property in 1917. About 1919 the Japanese Navy took over this land for use as a public building site, without appellant's consent and without pay-

ment of compensation. He tried many times to obtain its return and even took the case to court to force return of the property, but obtained no satisfaction. The last year any such effort was made was the year 1927.

This land was considered by the Japanese Government to be part of the public domain and as such its title has devolved upon appellees. The only contention advanced by appellees in opposing the return of the land, is that too much time has elapsed since the original taking to justify this court in reviewing such action. Accordingly, the case presents the question as to whether, in view of the interval of time which has elapsed since the original taking, this court may grant relief in the shape of a restoration of property taken without compensation by the prior government. To do so the court must dispossess both the appellees and any persons who may have entered upon the land in reliance on ownership being in appellees.

[1] Upon comparing the facts in this case with those in *Itpik Martin v. Trust Territory*, 1 T.T.R. 481, decided September 4, 1958, it appears that there is such close similarity between the two cases as to require imposition in this case of the legal conclusion reached there. Attention is directed to the discussion of legal issues in that case, the legal principles there adopted, and the legal authorities there followed, all of which are adopted as the law of this case. As in *Itpik Martin*, supra, the court can find no valid and persuasive legal or equitable ground for dispossessing appellees of their ownership and use of the subject premises, in view of the interval of time elapsed since appellant was wrongfully deprived of his title by the former government.

[2-4] In cases like the one at bar, the rule applicable is that there is no legal basis upon which a sovereign power can be required to right ancient wrongs committed by a

prior power before cession or conquest of the lands involved. *Cessna v. United States, et al.*, 169 U.S. 165, 18 S.Ct. Rep. 314. The only exception recognized is in cases where the wrong occurred so closely to the time of change of government so as to have afforded the aggrieved party no opportunity to obtain redress in the courts. Obviously, with a taking in 1919, this exception is not applicable in the case at bar.

[5] The only recourse available to appellant is to obtain alleviation of the situation by legislative or administrative action of Trust Territory Government. So far that Government has failed to open the door to claims for redress originating as far back as the case at bar, and until it does, this court is constrained to hold that it may not restore what the legislative branch has not sanctioned.

Upon the basis of the foregoing conclusions, the court is of the opinion that the Determination of Ownership of the property Ongelibel made by the District Land Title Officer of Palau District in favor of appellees, is valid and binding and same is hereby affirmed.