IN THE SUPERIOR COURT

OF THE

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN THE MATTER OF THE ESTATE OF FRANCISCA LAIROPI, Deceased.	)	**CIVIL ACTION NO. 97-1234B** **DECISION AND ORDER RE OBJECTION TO ADMINISTRATOR'S PETITION FOR FIRST AND FINAL DISTRIBUTION**

I. PROCEDURAL BACKGROUND

This matter came before the court for an evidentiary hearing on the Administrator's Petition for First and Final Distribution ("Petition") of the Estate of Francisca Lairopi ("Francisca"). Douglas F. Cushnie, Esq., appeared on behalf of the administrator Vicente M. Taitano ("Administrator). Jesus C. Borja, Esq., appeared on behalf of the direct lineal descendants of Carmen Faibar Rebuenog ("Rebuenogs"). The Rebuenogs filed an objection to the inventory of assets and the Petition, specifically the inclusion of the following real properties for disposition in the probate of the subject estate : Lot 1822, Lot 1852, and the east and south portion of Lot 363 ("the lots"), all situated on Saipan.

The court, having heard and considered the testimonies of the witnesses and arguments of counsel, having reviewed the exhibits and being fully informed of the premises, now renders its written decision. **[p. 2]**

II. FACTS

Francisca Lairopi ("Francisca")[1], a Carolinian woman, died sometime before World War II.[2]

[1] The court uses given names to avoid confusion.

[2] Maximo testified that she died in 1929; but a complaint, filed by Carmen in 1974 in the Trust Territory High Court, indicates that she may have been alive in 1936. Pl.'s Ex. G ¶ 5.

She owned real property at the time of her death, including lots 009 D 25 and 363.[3] Francisca was survived by her five children, Ignacio, Maria[4], Ana[5], Maria Olorit[6] and Felix, all of whom are now deceased. Maria Olorit died in 1936, Ana in 1940, Maria in 1944, and Ignacio in 1961.[7] The five children were survived by various issue, including the key figures in this case who are also deceased: Maria's daughter Carmen Faibar Rebuenog[8] ("Carmen"); Ana's daughter Antonia Mettao Iguel ("Antonia"); Maria Olorit's daughter Remedio Malus ("Remedio"); and Ignacio's daughter Gregoria Lairopi Olopai ("Gregoria"). At the time of this hearing, Ana's children, Francisca Mettao and Concepcion Itibus, were the only living grandchildren of Francisca. *See* Petition for First and Final Distribution ¶ 5.

In 1953, the Title Officer for the Saipan District issued title determinations ("T.D.") to the lots, which concluded that the "heirs" of Francisca's various daughters owned the lots and designated various land trustees as representatives of the heirs.[9]

T.D. 374, which encompasses Lot 1822 in the Quarter Master area, was issued in the name of "the heirs of Maria Lairopi represented by Carmen Faibar, Antonia [Mettao], Remedio Malus and

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[3] *See* Def.'s Ex. 1 and Pl.'s Ex. G ¶ 4. The inclusion of Lot 009 D 25 in Francisca's estate is uncontested. According to the Determination of Ownership, it is owned by Francisca's heirs but does not indicate the name of the land trustee. *See* Def.'s Ex. 1 (Determination of Ownership). The Quit Claim Deed, dated January 1958, provides that Carmen is the land trustee for the heirs. *See id*. (Quit Claim Deed).

[4] Maria is referred to in the land documents as Maria Lairopi, Maria Lairopi I, Maria Lairopi Faibar and Maria Faibar.

[5] Ana is referred to in the land documents as Ana Lairopi, Ana Lairopi Mettao or Ana Mettao.

[6] Maria Olorit is also referred in the land documents as Maria Lairopi II.

[7] The year of Felix's death was not established during the hearing.

[8] Carmen is also referred to in the land documents as Carmen Faibar.

[9] *See* Def.'s Ex. 2-4.

Ignacio **[p. 3]** Lairopi."[10] In an undated statement by Ignacio, as Carmen's representative, he wrote that the lot was obtained from the German Government and was owned by "Carmen Faibar, Antonia [Mettao], Remedio Malus, Pedro Metao, Donicio Malus, Francisca [Mettao], [and] Concepcion [Mettao]."[11] Ignacio also wrote "I don't not (sic) claim any damage for this land." In a separate document entitled "Statement of Ownership" dated 1945, Carmen wrote that the lot was inherited from Maria Lairopi in 1943 and had been leased to a Japanese individual.[12]

T.D. 600, covering Lot 1852 in Gualo Rai, was issued in the name of "the heirs of Maria Lairopi I, Ana Lairopi, and Maria Olorit, (All deceased) represented by Ignacio Lairopi as land trustee."[13] There are no other documents from the Land Commission files, except an attachment entitled "Annex A" which describes the location, approximate size and boundaries of the lot.

T.D. 622, which encompasses the east and south portion of Lot 363, was issued in the name of "the heirs of Maria Lairopi and Maria Olorit, represented by Carmen Faibar, Antonia [Mettao] and Remedio Malus as land trustees" but possession of the land was denied.[14] This parcel, which adjoins the present site of Oleai Elementary School, was originally owned by Francisca.[15]

Other documents pertaining to Lot 363 include Carmen's "Statement of Ownership or Lease filed in December 9, 1944. In that statement, Carmen, on behalf of her cousins Remedio and Antonia, wrote that the lots was inherited from "Maria Lairopi, Maria Olorit and Ana Lairopi." and that it had been leased to Ogata Isao in 1935.[16] In 1948, Carmen again submitted a "Report of Property Owned Land" stating **[p. 4]** that the lot, which had been occupied by the U.S. military since

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[10] Def.'s Ex. 2.

[11] Pl.'s Ex. J.

[12] Pl.'s Ex. K.

[13] Def.'s Ex. 4.

[14] Def.'s Ex. 3.

[15] *See* Pl.'s Ex G ¶ 1 and Ex. H.

[16] Pl.'s Ex. D.

1944, had not been returned to the family.[17] She also wrote that the "last owner in 1944" was Maria Lairopi and that she was then the present owner. In an undated statement, Antonia, as a representative of Carmen and Remedio, stated that the lot was family land obtained from the German Government in 1909, and that the three women inherited the lot from their mothers "Maria Lairopi I, Maria Lairopi II, and Ana Lairopi."[18]

None of the title determinations issued in 1953 were appealed. In October 1974, Carmen filed a complaint, on behalf of the heirs of Maria and Maria Olorit, which included an action seeking the repossession of the east/south portion from the Trust Territory Govemment, or compensation from the Trust Territory Government in the form of either damages or an exchange of comparable public land.[19] These claims were eventually denied by the Appellate Division of the Trust Territory High Court.[20]

Ignacio had kept various land documents with him up until 1959 or 1960, when he met with Carmen and gave her the documents. Ignacio, Francisca's oldest child, used lots 1822 and 1853 before World War II to grow sugar cane, which he harvested and sold to the Japanese. Ignacio is listed as the sole land trustee in T.D. 600 and is included as one of the land trustees in T.D. 374.

In 1975, the Micronesian Claims Commission issued a decision ("Claims Commission Decision") relating to the claim filed by Antonia and Carmen for losses directly resulting from World War II.[21] Gregoria's son Maximo Olopai ("Maximo") assisted Carmen and Gregoria in preparing the claims. The Claims Commission found that Antonia and Carmen, as "the [r]epresentatives of the [h]eirs of Francisca Lairopi" were entitled to compensation for losses including "houses,

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[17] Pl.'s Ex. C.

[18] Pl.'s Ex. B.

[19] Pl.'s Ex. at 5-7. The complaint also appealed the title determination issued by the Land Commission on Tract 21041, the Oleai school site, which found that the tract was public land. Carmen claimed that 2.2 hectares of the tract was the property of the Lairopi family, which the family was forced to sell to the Japanese upon leaming that Ignacio was detained and tortured because of their initial refusal to sell the land.

[20] *See* Pl.'s Ex. F.

[21] *See* Def.'s Ex. 5.

farmhouses, a water tank and a well **[p. 5]** in Garapan and Gualo Rai."[22] The Claims Commission also awarded separate compensation for the loss of use of the land and other damages to the claimants who were representing the title holders of lots 1822, 1852, 363 and Lot 009 D 25.[23]

Carmen's children have entered the contested lots on several occasions over the years. They have cleared the properties and planted coconut trees. In 1996, Carmen's son Enrique built a house on Lot 1852. Carmen's son Diego Rebuenog ("Diego") also testified that in 1971, the Rebuenog family including Carmen participated in the clearing of the land on Lot 1852, together with Antonia and Pedro Iguel.

III. ISSUE

(1) Whether land parcels are considered Carolinian family lands when the title determinations were issued in the names of "the heirs" of a decedent's daughter/daughters along with the designation of land trustees.

(2) If the lands qualify as Carolinian family lands, whether they are properly included as assets of the decedent's estate.

III. ANALYSIS

A. The Objection

A threshold issue is the appropriate framework for assessing the Administrator's contention that the contested lots are Carolinian family lands which originally belonged to Francisca and should be included in the probate of her estate.

Because the Marianas Land Title Office ("Title Office") issued title determinations to the lots and no appeal was filed, the court begins its examination with the general rule on administrative res judicata. According to the Supreme Court, a land title determination of ownership should ordinarily

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[22] *Id*. Claims Commission Decision at 2.

[23] *See id*. Def.'s Ex. 5 at 3. The Claims Commission based its decision "on official land records and other probative evidence developed by its investigation. *See* Def.'s Ex. 5 (Claims Commission Decision) at 3. An investigation revealed that the claimants had originally claimed ownership interests in the wrong lots and found that the lots where claimants had ownership interests were not included in the initial claim. *See id*.

be given res judicata effect, and may not be set aside unless it was (1) void when issued, or (2) the record is patently **[p. 6]** inadequate to support the agency's determination, or if according the ruling re judicata effect would (3) contravene an overriding public policy or (4) result in manifest injustice. *See In re Estate of Dela Cruz*, 2 N.M.I. 1, 11 (1991). Issues left unresolved by the title determination may be determined by the trial court, e.g., identifying the heirs entitled to the decedent's estate. 2 N.M.I. at 11.

In *In re Estate of Dela Cruz*, although the title determination was issued in the name of "the heirs of Joaquin Dela Cruz, represented by Vicente Taisacan Dela Cruz, as Land Trustee," the Court noted that, according to Land Management Regulation No. 1 ("1953 Regulation") promulgated in 1953, where an estate is claimed jointly or in common by the heirs of a deceased owner, the designated land trustee was to serve as administrator of the lands and to take "immediate steps to determine the persons interested in the land as heirs or otherwise, and to have the land distributed according to law or the desires of the true owners." 2 N.M.I. at 9-10. The Court found that prior to filing of the probate in that case, no steps had been taken to determine the heirs entitled to the contested property in accordance with the regulation and thus the question remained "open for judicial resolution." *Id*. at 12.

Res judicata applies equally to title determinations of Carolinian-owned properties but a factual question on whether the record title holder held the lot in question for herself or on behalf of the family may have been left unresolved by the title determination. *See In re Estate of Kaipat*, 3 N.M.I. 494, 498 (1993).

In *In re Estate of Kaipat*, 3 N.M.I. 494 (1993), the determination of ownership vested title in the name of the decedent, Rita Kaipat. Evidence presented at trial demonstrated that the land originated from Rita's mother, Vicenta. The Court found that although the title determination was final under general principles of administrative res judicata, the title determination left unanswered a factual question whether Rita acquired the lot as her own, or as a title trustee on behalf of the heirs of Vicenta. *See* 4 N.M.I. at 498 (found that trial court erred when it declined to look behind title determination to determine how Rita acquired the land in light of facts that the lot in question was used by the heirs of Vicenta).

Thus, a literal reading of the title determination would require a finding that the title holder's ownership of the land in her name alone passes muster factually in light of Carolinian customary land law. *See* 3 N.M.I. at 499. Absent this factual basis, the property remains family land and the title determination should be corrected to recognize the right of other heirs to use the land under Carolinian custom. *See id.* **[p. 7]**

The Court reasoned that because the parties were of Carolinian descent, the land ordinarily would pass on according to Carolinian customary land law which does not usually "cut off other heirs from sharing in the land." 3 N.M.I. at 499. "Only where the original owner clearly decides to depart from Carolinian customary law may a devise to an heir stand." *Id.*at 498, citing *Estate of Igitol*, 3 CR 307 (N.M.I. Super. Ct. 1989).

In sum, the Court instructs in *In re Estate of Kaipat* that the determination of Carolinian family land should begin with a finding that the land in question is owned by the head of the lineage, i.e., the mother of the title holder. Once that fact is established, a presumption that the property is Carolinian family land arises, notwithstanding that the land is held solely in the title holder's name. That presumption must be rebutted with evidence that the record title holder inherited the land alone from the original owner. Otherwise the presumption stands. *See* 3 N.M.I. at 499.

Although *In re Estate of Kaipat* traces the ownership history from Rita to her mother Vicenta, and the court is tasked here with tracing the ownership history from Maria's heirs back to their grandmother Francisca, the inquiry is essentially the same. Here, as in *In re Estate of Kaipat*, the crucial issue is whether the lands in question are Carolinian family lands and thus, whether all of the surviving descendants of original land owner are entitled to the properties in question.

Within this analytical framework, the court addresses the initial inquiry of whether the contested lots originally belonged to Francisca. Maximo testified that Gregoria told him that Francisca was the original landowner. This is credible testimony given that Ignacio, Francisca's eldest son, lived with Gregoria during the last years of his life and she would have been privy to this information. According to both Maximo and Diego, Ignacio had kept various land documents until 1959 or 1960, when he gave them to Carmen in the presence of Gregoria and Diego. Diego, on the other hand, had no knowledge of the history of the properties beyond the four corners of the title

determinations.

The evidence pertaining to the east and south portion of lot 363, in particular, is compelling. In a complaint filed in 1974, Carmen expressly states that the lot belonged to Francisca and descended to her daughters upon her death. *See* Pl.'s Ex. G ¶ 4.

Moreover, Carolinian customary land law supports Maximo's testimony that the lands originated from Francisca. Under Carolinian land tenure custom, although each member has a right to use the family **[p. 8]** land, the property is collectively owned and controlled by the female members of the lineage, and passes on matrilineally to succeeding generations.[24] *See In re Estate of Rangamar*, 4 N.M.I. 72, 76 (1993). The contested lots, therefore, which were registered presumably under her various daughters' names after her death during the Japanese administration, must have descended from Francisca.[25]

Having established Francisca as the original owner of the properties, the court now examines whether these lots descended to her daughters as Carolinian family lands, or as their own individual properties.

Because multiple lots are at issue in the instant case and the inquiry is factually determinative, it is necessary to examine the testimonies and the documentary evidence, which were obtained from the files of the Land Commission in relation to each individual lot.

1. Lot 1822

In arguing that Maria held the property individually, the Rebuenogs primarily rely on

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[24] Some Carolinians have deviated from the Carolinian land tenure custom by distributing the land to their members as their individual property, similar to the Chamorro custom of partida. *See* ALEXANDER SPOEHR, SAIPAN: THE ETHNOLOGY OF A WAR-DEVASTATED ISLAND 333-34 (N.M.I. Division of Historic Preservation 2d ed. 2000), originally published by Chicago Natural History Museum in Fieldiana (Anthropology, vol. 41, 1954) ("Spoehr"); *In re Estate of Rangamar*, 4 N.M.I. at 76. The deviation may have originated during the German administration when Carolinian males received homestead property as their individual lands. *See id.* Some of these lands were transferred to the children regardless of gender. *See id.*

[25] The Supreme Court noted in *In re Estate of Rangamar* that the Japanese administration recorded Carolinian family lands in the name of the oldest female member of the maternal line. *See* 4 N.M.I. at 76; Richard G. Emerick, *Land Tenure in the Marianas*, 1 Land Tenure Patterns: Trust Territory of the Pacific Islands 226 (Office of the High Commissioner, Trust Territory of the Pacific Islands, 1958). In some instances, the name of more than one female member was recorded, suggesting perhaps that the other female members may have wanted to protect their interest when the land was leased out. *See* Spoehr at 332. The land records in the instant case show that Lot 1822 and the east and south portion of Lot 363 were leased out to Japanese individuals or companies. Pl.'s Exs. D and L.

T.D. 374, which vested title in "the heirs of Maria Lairopi represented by Carmen Faibar, Antonia [Mettao], Remedio Malus and Ignacio Lairopi." But as indicated, the1953 Regulation, which governed the issuance of title determinations, directed the land trustees "to determine the persons interested in the land *as heirs or otherwise* and to have the land distributed *according to law* or the desires of the true owners." *See* 4 N.M.I. at 9-10 (emphasis added). The determination of who was entitled to the property was not limited only to the decedent's direct descendants. Thus, in reading the phrase used in the T.D. together with the Regulation, the court finds that the use of the term "the heirs of Maria Lairopi" does not necessarily mean that T.D. 374 vested title only in Maria's direct lineal descendants. **[p. 9]**

The Rebuenogs also contend, through Diego's testimony, that only Carmen's children have entered the property and used it and that their mother never told them that any of the other heirs of Francisca's children had an ownership interest in the property. On cross examination however, when pressed about the absence of claims from Francisca's other descendants, Diego did not elaborate on what Carmen may have told him about the lot. He testified instead that he formed this conclusion upon reviewing the Land Commission files and noting the absence of claims on the property.

The Rebuenogs also rely on the Claims Commission Decision to support their argument on the ground that only Carmen, as the representative of "the heirs of Maria", was the named recipient of the monetary award for Lot 1822. The Claims Commission Decision, however, was predicated on official land records, i.e., title determinations, and other evidence obtained through an independent investigation, and is not necessarily dispositive of the issue of whether Maria held the lot as her individual property. *See* Def.'s Ex. 5 at 3. *See Ngikleb v. Ngirakelbid*, 8 T.T.R. 11, 14 (1979) and *Diaz v. Diaz*, 8 T.T.R. 264, 266-67 (1982) (court may set aside Claims Commission's conclusion of land ownership in order to re-distribute war claims award to rightful owner of property).

The Administrator, through Maximo's testimony, contends that according to Gregoria, the lot was never divided upon Francisca's death and given to Maria as her individual property. Maria was merely a customary trustee and held the land on behalf of the family.

Documentary evidence supports Maximo's testimony. Although T.D. 374 declared that Lot 1822 was owned by the "heirs of Maria Lairopi represented by Carmen Faibar, Antonia [Mettao], Remedio Malus and Ignacio Lairopi," Carmen filed a "Statement of Ownership or Lease" in 1945 and a "Report of Property Owned Land" in 1948, asserting that the land, which was inherited from Maria, belongs to her and her cousins, Antonia and Remedio.[26] These statements indicate that Lot 1822 passed on to the next generation according to the principle of Carolinian land custom that ownership of Carolinian family land devolves to the next generation through the female members of the lineage. *See In re Estate of Rangamar*, 4 N.M.I. at 76.

Although the Rebuenogs presented testimonial evidence of their sole use of the lot, their activities, consisting of land clearing and tree planting, fall short of establishing Maria's sole ownership. To **[p. 10]** establish a clear claim to sole ownership, the Rebuenogs must demonstrate that Carmen, as Maria's only child, claimed the lot as her own after the war and that only she and her children moved on to the property and lived there. *See In re Estate of Mueilemar*, 1 N.M.I. 441, 447 (1990) (ownership claim of heirs supported by living on land and claiming it as their own after the war). Moreover, the Rebuenog's reliance on the Claims Commission Decision is undermined by the fact that Carmen filed the claim on the lot, not individually, but jointly with Antonia and with the assistance of Gregoria. *See id.* Consequently, the court cannot conclude that Maria inherited the land from Francisca as her individual property and that only her direct lineal descendants are entitled to the lot. To the contrary, based upon preponderance of the evidence, the court finds that Lot 1822 is Carolinian family land.

2. Lot 1852

No documentary evidence was presented other than a copy of T.D. 600, an attached description of its location and a map. T.D. 600 vests title in "the heirs of Maria Lairopi I, Ana Lairopi, and Maria Olorit, . . . represented by Ignacio Lairopi as land trustee." As explained in the discussion on Lot 1822, the phrase used in the T.D. does not conclusively prove the Rebuenog's claim that only the direct lineal descendants of the three daughters are entitled to the property.

[26] Ignacio's undated statement included the names of Ana and Maria Olorit's names, suggesting perhaps that the lot passed only to his three sisters. No evidence was offered in support of this theory which was not argued at the hearing.

Additionally, although one of the Rebuenogs built a house on the lot and presumably lives there, there is little else to indicate that Lot 1852 devolved to Francisca's three daughters as their own jointly-held property.[27] As indicated, the Claims Commission Decision itself is not determinative of whether the lot was devised solely to Francisca's three daughters, given that the filing of the claim was a concerted effort with Ignacio's family participating in its preparation. The presumption that the lot is Carolinian family land has not been effectively rebutted and the court finds, based upon the preponderance of the evidence, that Lot 1852 descended to Francisca's daughters upon her death as Carolinian family land and that all of Francisca's descendants are entitled to use the property.

3. East and South Portion of Lot 363

The Rebuenog heirs primarily rely on T.D. 622 to support their contention that the lot belongs only to the direct lineal descendants of Maria Lairopi and Maria Olorit. As discussed in the analysis **[p. 11]** on Lot 1822, although T.D. 600 vests title to "the heirs of Maria Lairopi and Maria Olorit, represented by Carmen Faibar, Antonia [Mettao] and Remedio Malus as land trustees," the phrase used must be read in conjunction with the 1953 Regulation. The 1953 Regulation does not indicate that the term "the heirs of Maria Lairopi and Maria Olorit" was intended to limit the disposition of the land only to the decedents' direct lineal descendants. T.D. 600, therefore, does not conclusively prove the Rebuenog's argument.

Other than Diego's testimony that Carmen's family periodically cleared the land and planted coconut trees, the Rebuenogs did not present other evidence that Maria and Maria Olorit inherited the land from Francisca as their own jointly-held property. As is the case with Lot 1822, the documentary evidence contradicts this assertion. Although Carmen's "Report of Property Owned Land" dated February 14, 1948, provides that she was the "present owner," she filed an earlier "Statement of Ownership or Lease" in1944, declaring that she and her cousins, Remedio and Antonia, own the property. Carmen repeats this assertion in the complaint filed in 1974, in which she acknowledges that the land had been conveyed upon Francisca's death to her three daughters, Maria, Ana and Maria Olorit. Moreover, Antonia's undated statement provides not only that she,

[27] The Rebuenogs did not indicate whether they were pursuing the objection on behalf of any of the surviving heirs of Ana or Maria Olorit.

Remedio Malus and Carmen own the lot, but that the land was "family land." *See* Pl.'s Ex. B.

The joint declaration of ownership by Carmen, Remedio and Antonia, representing Maria, Maria Olorit and Ana, is a clear indication that the east and south portion of lot 363 descended from Francisca to their mothers as Carolinian family land and that they held customary title on behalf of the members of the lineage. Thus, based on preponderance of the evidence, the court finds that the east and south portion of Lot 363 is Carolinian family land.

Having concluded that the three lots are Carolinian family lands, the court also finds that because Francisca was the original owner of the lots, the inclusion of these lots in her estate, together with Lot 009 D 25, is appropriate.[28] *Compare with In re Estate of Ogumoro*, 4 N.M.I. 124, 127 (title determination issued in name of son's heirs was unsupported by record and had no res judicata effect; consequently land remained part of the estate of the father, the original landowner.)

[p. 12]

B. <u>Disposition of the Estate</u>

Because Francisca died before February 15, 1984, her estate passes pursuant to Title 13 of the Trust Territory Code. *See* 8 CMC § 2102. Title 13 does not provide, however, for the distribution of the estate of a person who is Carolinian who died intestate and thus, the court turns to Carolinian custom for guidance. *See In re Estate of Rangamar*, 4 N.M.I. at 75.

As explained in the preceding discussion, under the traditional Carolinian land tenure system, the family land descends matrilineally. *See* 4 N.M.I. at 76; *cf.* 8 CMC § 2904. Under this system, the female members of the lineage collectively own and control the land, with the other members possessing the right to use the property.[29] *See id.* and *In re Estate of Kaipat*, 3 N.M.I. at 501.

The title to the lots, including the uncontested Garapan village lot 009 D 25, should reflect

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[28] Another route would have been to probate the respective estates of Francisca's three daughters to determine the disposition of the properties. The Rebuenogs objected to the inclusion of the contested lots in Francisca's estate but did not oppose the court's jurisdiction in determining whether the lots are Carolinian family land or whether only the lineal descendants of Francisca's various daughters as set forth in the title determinations are entitled to the properties.

[29] Partition of the Carolinian family land may occur when "the females consent to treatment inconsistent with Carolinian land custom." 4 N.M.I. at 77, citing *Tarope v. Igisaiar*, 3 CR 111 (1987) and *In re Estate of Igitol*, 3 CR 906 (1989).

the name of Francisca's oldest living granddaughter, as customary trustee, and the names of the other heirs of Francisca who are entitled to use the land.

V. CONCLUSION

Based on the foregoing, the court concludes that lots 1822, 1852, and the east and south portion of Lot 363, are Carolinian family lands which originally belonged to Francisca and that the inclusion of these lots in Francisca's estate for disposition is appropriate.

SO ORDERED this 9th day of November 2000.

/s/ John A. Manglona
JOHN A. MANGLONA, Judge *Pro Tem*