FOR PUBLICATION

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

MAGDALENA A. FLORES, FRANCISCA A. VILLAGOMEZ, ANECIA A. CABRERA, ERNESTO C. ARRIOLA, ELIZABETH C. ARRIOLA, ANITA C. ARRIOLA, MAXIMO T. ARRIOLA, AND JACQUILINA S. ARRIOLA, Plaintiffs, v. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS and THE DIVISION OF PUBLIC LANDS and THE DEPARTMENT OF LANDS AND NATURAL RESOURCES, Defendants.	**CIVIL CASE NO. 00-0320D** **ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT and DENYING PLAINTIFFS' CROSS-MOTION FOR SUMMARY JUDGMENT**

I. INTRODUCTION

THIS MATTER came before the court on March 4, 2002, in Courtroom 205A at 9:00 a.m. on Defendants' Motion for Summary Judgment and Plaintiffs' Cross-Motion for Summary Judgment.[11] Reynaldo O. Yana, Esq. appeared on behalf of Magdalena A. Flores, et al., ("Plaintiffs"). Ramon K. Quichocho, Esq. and Alan Lane, Esq. appeared on behalf of the Division of Public Lands ("DPL"), and Assistant Attorney General Andrew Clayton, appeared on behalf of the Commonwealth of the Northern

[1] Plaintiffs' motion is treated as a Cross-Motion for Summary Judgment as it was filed after Defendants' Motion for Summary Judgment.

Mariana Islands ("CNMI")(collectively "Defendants"). The court, having reviewed the documents on file, having heard the arguments of counsel, and being fully advised, now renders its written decision following its oral ruling of August 19, 2002.

II. BACKGROUND

On August 1, 2000, Plaintiffs filed an Amended Complaint[2] against Defendants for declaratory judgment seeking to be named as the true owners of Lots 1684 and 1697, which contains two hectares in Dan-Dan, formerly Garapan District ("Lots 1684 and 1697"), and for damages arising from trespass and for the unlawful use of Plaintiffs' properties. Plaintiffs are the heirs of Joaquin Cabrera Arriola. On August 22, 2000, CNMI filed its Answer. On August 23, 2000, Defendants filed a Motion to Dismiss for lack of service, and a hearing was set for September 27, 2000.[3] On August 21, 2001, the matter was set for trial by stipulation. In preparation for trial the parties, on January 29, 2002, filed a Stipulation of Facts and Exhibits ("Stip. Facts & Ex."). Shortly thereafter, the parties again by stipulation moved to continue the bench trial to allow for the filing of pretrial motions. On February 4, 2002, Defendants moved for summary judgment. On February 14, 2002, Plaintiffs filed their Opposition to Defendants' Motion for Summary Judgment, and Cross-Motion for Summary Judgment. On February 21, 2002, Defendants filed their Reply. The court heard arguments on the motions on March 4, 2002.

III. UNDISPUTED FACTS[4]

On January 6, 1945, following the U.S. invasion of Saipan after World War II, Joaquin Cabrera Arriola ("Arriola") filed a claim of ownership to Lots 1684 and 1697 with the Land and Claims Office of the Trust Territory ("T.T.") Government. *See* Defs.' Mot. for Summ. J. ("Defs.' MSJ") at 3; Pls.' Mem. of Law at 1; Stipulation of Ex. ("Stip. Ex.") C. In his statement to the T.T. Land and Claims Office, Arriola claimed that he inherited Lots 1684 and 1697, as well as other lots, from his father who received

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[2] The original complaint was filed on July 24, 2000, but was amended on August 1, 2000, pursuant to Com. R. Civ. P. 15(a). There appears to be a typographical error in Plaintiffs' prayer for relief in both the Complaint and Amended Complaint. Plaintiffs typed "Lot 1797" instead of "Lot 1697". *See* Compl. at 3; Am. Compl. at 3. Plaintiffs referred to Lot 1697 as the lot at issue throughout the rest of their pleadings.

[3] There is no record of the hearing. Defendants presumably withdrew their motion as the parties proceeded with the case.

[4] *See also* Stip. Facts & Ex.

title to them from the German Government. *See* Stip. Ex. E. On February 11, 1948, Arriola expressed his desire to trade Lots 1684 and 1697 with Government lands. *See* Stip. Ex. E. On April 17, 1945, Legal Officer R.C. Coburn, in a memorandum to the Acting Military Officer regarding the investigation of land ownership on Saipan following World War II, reported on the discovery of three volumes of a land registry containing land leases made by the N.K.K., a Japanese Company, to local landowners during the Japanese occupation of Saipan ("Coburn Report"). *See* Stip. Ex. D. In one of the registries, translated into English, Arriola was listed as having leased Lots 1684 and 1697 from the N.K.K. from January 21, 1943 to March 31, 1952. *See* Stip. Ex. B. In notes dated January 6, 1958, Arriola was also noted as having leased Lot 1697 from the Japanese Government.[5] *See* Stip. Ex. I.

A hearing on Arriola's claims to ownership of Lots 1684 and 1697, as well as other lots claimed by Arriola, was held on September 1, 1953. *See* Stip. Ex. Z. Following the hearing on September 1, 1953, after due notice to the parties and after public hearings at which time all persons were given full opportunity to be heard, Title Officer John A. Wood issued Determination of Ownership No. 577 ("T.D. 577") in which he determined that Lots 1684 and 1697 were the properties of Arriola. *See* Compl. ¶ 4; Defs.' MSJ at 3; Stip. Ex. G, V, X. Nine months later on June 9, 1954, after public hearings at which time all persons were given full opportunity to be heard, Title Officer John P. Raker, amended the title determination entered on September 1, 1953, by granting ownership of Lots 1684 and 1697 to the N.K.K., Japanese company, which then vested in the T.T. Government ("A.T.D. 577"). *See* Defs.' MSJ at 3; Pls.' Mem. of Law at 2; Stip. Ex. I, Y. Neither party appealed A.T.D. 577. *See* Stip. of Facts at 2. On July 23, 1955, Arriola, in an agreement to exchange part of Lot 1685[6] with Lot 1661 owned by

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[5] An ambiguity exists in the actual dates of the lease (see page 1 of Ex. I stating that Arriola leased Lot 1684 from January 21, 1943 to March 31, 1954 and Lot 1697 from July 7, 1933 to March 31, 1953, Stip. Ex. I at 1, and page 2 indicating Lot 1684 was leased from July 7, 1933 to March 31, 1953 and Lot 1697 from January 21, 1943 to March 31, 1952. *Id*). Such ambiguity is irrelevant to the case at bar because the lease is pertinent only to show that the N.K.K., and not Arriola, owned the lots during the Japanese occupation of Saipan.

[6] On September 1, 1953, Title Officer Wood, after due notice to interested persons and after public hearings issued Title Determination No. 578 ("T.D. 578") naming the N.K.K., a Japanese Company, as owner of Lots 1685 and 1696. *See* Stip. Ex. V. On June 9, 1954, Title Officer Raker amended T.D. 578 by issuing Amended Title Determination 578 ("A.T.D. 578") after due notice to interested persons and after public hearings, naming Arriola as the owner of Lots 1685 and 1696. *See* Stip. Ex. W. Subsequent to the issuance of A.T.D. 578, Arriola exchanged part of Lot 1685 with Lot 1661 owned by the Government. *See* Stip. Ex. M, T.

the T.T. Government, acknowledged that Lot 1684 (lot at issue) was owned by the Government. *See* Stip. Ex. T. On February 12, 1958, in a Quit Claim Deed deeding part of Lot 1685 to the Government, Arriola again acknowledged that Lot 1684 belonged to the Government. *See* Stip. Ex. M.

IV. QUESTIONS PRESENTED

1. Whether res judicata bars Plaintiffs from relitigating the validity of A.T.D. 577 where Plaintiffs failed to appeal an administrative determination within the one year statute of limitations under § 14 of Regulation No. 1, and where Plaintiffs were accorded due process of law.

2. Whether Plaintiffs have a basis to claim adverse possession against Defendants.

V. ANALYSIS

A. Summary Judgment Standard.

The standard for summary judgment is set forth in Rule 56 of the Commonwealth Rules of Civil Procedure. Rule 56(a) provides: "[a] party seeking to recover upon a claim . . . may . . . move with or without supporting affidavits for a summary judgment in the party's favor upon all or any part thereof."

Rule 56(c) continues:

> [t]he judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

Com. R. Civ. P. 56(c). Once a movant for summary judgment has shown that no genuine issue of material fact exists, the burden shifts to the opponent to show that such an issue does exist. *See Riley v. Pub. Sch. Sys.*, 4 N.M.I. 85, 89 (1994). The opponent, by affidavit or otherwise, must set forth specific facts showing a genuine issue for trial. *Id*. A fact in contention is considered material only if its determination may affect the outcome of the case. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-49, 106 S. Ct. 2505, 2510, 91 L. Ed. 2d 202, 212 (1986). After the moving party meets the initial burden, it falls to the non-moving party to show that a genuine issue of a material fact is still in question. *See Castro v. Hotel Nikko, Saipan, Inc.*, 4 N.M.I. 268, 272 (1995). A determination regarding the existence of genuine issues of material fact is made viewing the evidence in a light most favorable to the nonmoving party. *See Estate of Mendiola v. Mendiola*, 2 N.M.I. 233, 240 (1991).

B. Plaintiffs Are Barred by Res Judicata From Relitigation of A.T.D. 577.

The first question is whether A.T.D. 577 constitutes an administrative adjudication which has become conclusive under res judicata principles. Title determinations, such as T.D. 577 and A.T.D. 577, were issued pursuant to the Office of Land Management Regulation No. 1 promulgated by the T.T. High Commissioner on June 29, 1953 ("Regulation No. 1").[7] The purpose of Regulation No. 1 was: (1) to provide a procedure for the determination of ownership of privately held lands that were or had been occupied by the U.S. Government or the T.T. Government, and (2) to return those lands no longer needed by the Government to the owners. *See* Regulation No. 1, § 1 (1953). Title officers under Regulation No. 1 were authorized and empowered to determine the ownership of land, to release such lands to their respective owners and to execute the necessary papers to formalize such release. *Id*. §§ 2,[8] 3 . Regulation No. 1 specified procedures for the filing of land claims, for the notice of hearings, for the conduct of hearings and the consideration of evidence by title officers. *Id.* §§ 4-7. This regulation further clarified under §13 that:

> [u]nless and until the decision of the . . . [t]itle [o]fficer is reversed or modified by the High Court, the legal interests of persons designated as owners shall be as shown on the determination of ownership, except that no person can convey better title than he has at the time of the conveyance.

Id. § 13.[9] Regulation No. 1 also provided that after issuance of a determination of ownership, any person having or claiming an interest in the land concerned could appeal the determination to the T.T. High Court

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[7] *See* Office of Land Management Regulation No. 1, 1 Territorial Register 170 (December 15, 1974) (Regulation No. 1 was adopted in 1953 but was not published in the Territorial Register until 1974).

[8] Regulation No.1, section 2 reads:
Determination of land ownership. The District Land Title Officer is hereby authorized and empowered to determine, in accordance with this Regulation, the ownership of any tract of land now or formerly used, or occupied, or controlled by the United States Government or any of its agencies, or by the Government of the Trust Territory of the Pacific Islands in the District for which he is appointed; and to appraise, evaluate and recommend for settlement any claim for damage, rent or alienation resulting from such use or occupation.

[9] Regulation No. 1, section 13 reads:
Determination of ownership, effect. Unless and until the decision of the District Title Officer is reversed or modified by the High Court, the legal interests of persons designated as owners shall be as shown on the determination of ownership, except that no person can convey better title than he has at the time of the conveyance.

within one year from the date the determination was filed with the Clerk of Courts. *Id.* § 14.[10]

The first inquiry thus is whether A.T.D. 577 was a final administrative ruling on the ownership of Lots 1684 and 1697 under Regulation No. 1. It is clear from the parties stipulation that T.D. 577 was issued on September 1, 1953, by Title Officer Wood and A.T.D. 577 was issued nine months later on June 9, 1954, by Title Officer Raker. *See* Stip. Ex. X, Y. It is undisputed that A.T.D. 577 changed the title determination to Lots 1684 and 1697 by naming the N.K.K, a Japanese Company, and not Arriola as the true owners of said lots. *See* Stip. Facts at 2; Stip. Ex. X, Y. It is also undisputed that subsequent to the issuance of T.D. 577 and A.T.D. 577, no steps were taken by Arriola to contest or appeal the determination to the T.T. High Court. *Id.* The court concludes that since A.T.D. 577 was the last order issued by a T.T. Land and Claims title officer regarding Lots 1684 and 1697 and it was not appealed, it became a final ruling under principles of administrative res judicata.

The CNMI Supreme Court in *In re Estate of Dela Cruz*, 2 N.M.I. 1 (1991), addressed the finality of administrative determinations of land ownership made by title officers pursuant to Regulation No. 1. In *Dela Cruz*, the Court affirmed the trial court's decision not to disturb a 1958 determination on the basis that the determination was not appealed within one year after its issuance.[11] In affirming the trial court's reliance on the title officer's determination as having administrative res judicata effect, the Court recognized that the administrative scheme established by Regulation No. 1 gave title officers the authority to administratively decide the ownership of privately-held lands and that the function of the agency was

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[10] Regulation No. 1, section 14 reads:

> Appeal. 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 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. Hearing on appeal may be de novo or on the record at the discretion of the court.

[11] The CNMI Supreme Court upheld the one year statute of limitations to appeal a title officer's determination of ownership. *See In re Estate of Dela Cruz*, 2 N.M.I. 1, 10-11 (1991) (holding that since Title Officer's ownership determination was not appealed within the one-year statute of limitations, it became final under the principle of administrative res judicata); *see also Aldan v. Kaipat*, 794 F.2d 1371, 1373 (9th Cir. 1986) (holding that Trust Territory Land Office's Determination of Ownership effectively barred Defendant and heirs' claim because time to appeal this determination expired one year after the determination according to established law); *In re Otto and Piu v. Konang*, 5 T.T.R. 76 (1970) (holding that failure to appeal a Determination of Ownership, entered by the District Land Title Officer, within one year constituted a final determination and cannot be reopened and the issues relitigated).

quasi-judicial with an avenue for review by the T.T. High Court. *Id*. at 10. The Court held that "[w]hen an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had adequate opportunity to litigate, the courts have not hesitated to apply *res judicata* to enforce repose." *Id*. at 11 n.6. The Court further held that after a quasi-judicial administrative ruling or determination becomes final, such a ruling or determination "should ordinarily be given res judicata effect, and may not be set aside unless it was (1) void when issued, or (2) the record is *patently inadequate* to support the agency's decision, or if according the ruling res judicata effect would (3) contravene an overriding public policy or (4) result in a manifest injustice." *Id*. at 11 n.9.

As the last administrative ruling on the ownership claims to Lots 1684 and 1697, A.T.D. 577 should be given res judicata effect unless the *Dela Cruz* exceptions apply. The first consideration is whether A.T.D. 577 is void. Plaintiffs argue that A.T.D. 577 is void for two reasons. First, Plaintiffs aver that T.D. 577, and not A.T.D. 577, is the final administrative ruling because title officers were not authorized to modify or reverse the agency's determinations and that only the court has that power.[12] *See* Pls.' Mem. of Law at 2, 4. Plaintiffs rely on §13 and §14 of Regulation No. 1 for the proposition that in promulgating the regulations, the High Commissioner did not intend to give the title officer the power to modify or reverse its own determination, and that only the High Court has the power to reverse or modify any mistake. *See* Pls.' Mem. of Law at 4-5. Defendants, however, argue that title officers were afforded the opportunity to correct their mistakes, inadvertence, or other errors before the determination became final and after proper notice to affected persons was given. *See* Defs.' MSJ at 6-8.

After considering the record, the court agrees with Defendants that title officers had the authority, although not unlimited, to correct their mistakes. Section 2 of Regulation No. 1 gave title officers broad authority to determine ownership of lands based on an administrative adjudicative scheme. While Regulation No.1 does not state with specificity the authority to modify or reverse the agency's own determinations, it is clear from § 14 that a title determination does not become final until one year after the

[12] Plaintiffs appear not to be genuine in their argument that title officers lack the authority to modify or reverse a prior determination. T.D. 578 was amended by A.T.D. 578 at the same time T.D. 577 was amended by A.T.D. 577. *Compare* Stip. Ex. V,W, and X,Y. Plaintiffs apparently accepted Title Officer Raker's determination in A.T.D. 578 that Arriola (and not N.K.K.) was the owner of Lots 1685 and 1696. *Id.* Arriola apparently assumed title because about thirteen months after issuance, he arranged to have part of Lot 1685 exchanged with Government land. *See* Stip. Ex. M.

filing of such a determination with the Clerk of Courts. Here, T.D. 577 was amended, less than one year after its issuance and thus was not yet a final determination when A.T.D. 577 was issued.

Additionally, contrary to Plaintiffs' assertions, 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 of section 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 interests of persons designated as owners shall be as shown on the determination of ownership . . . no person can convey better title than he has at the time of conveyance." *See* Regulation No. 1, § 13. Certainly section 13 gave ample discretion to title officers to correct mistakes when the person named on a title determination was mistakenly identified as the true and rightful owner. *Id.*; *See and compare* Stip. Ex. V, W and X, Y; *see also Macktal v. Chao*, 286 F.3d 822, 825-26 (5th Cir. 2002) (agency may reconsider decision if not arbitrary, capricious, or abuse of discretion within a reasonable time and notice given to the parties); *Am. Trucking Ass'ns, Inc., v. Frisco Transp. Co.*, 358 U.S. 133, 145-46, 79 S. Ct. 170, 177, 3 L. Ed. 2d 172, 181 (1958) (agency has inherent, but not unlimited, authority to reconsider and correct prior determinations); *Bookman v. United States*, 453 F.2d 1263, 1265 (Ct. Cl. 1972).

In this case, a close review of the T.T. Land and Claims' record, stipulated to by the parties, show that Arriola's claim to receiving title to Lots 1684 and 1697 from the German Government were inconsistent with the Japanese land registry recovered after W.W.II. *See* Coburn Report & Stip. Ex. D, B, I. Title Determination 577, which conveyed Lots 1684 and 1697 to Arriola, was apparently made in error because there was clear evidence during the Japanese occupation of Saipan that Arriola leased the same parcels from the N.K.K. *See* Stip. Ex. B, I. If Arriola had a legitimate claim to the lots in question, he would not have had to lease them from the N.K.K. Additionally, if A.T.D. 577 was disputed, Arriola would have appealed the decision and not so readily acknowledge on July 23, 1955, in an Agreement to Exchange Lands with the Government, that Lot 1684 belonged to the Government. *See* Stip. Ex. T. The record surely supports the issuance of A.T.D. 577 adjudging that the N.K.K. (and not Arriola) was the true owner of Lots 1684 and 1697. Because the N.K.K. was a Japanese company, title to the lots vested in the T.T. Government.

Plaintiffs next argue that A.T.D. 577 is void because Plaintiffs were denied due process.

Plaintiffs contend that on June 9, 1954, Title Officer Raker reversed and amended T.D. 577 without providing Plaintiffs' predecessor in interest, Arriola, with notice of the June 9, 1954, hearing, as required by due process. *See* Pls.' Mem. of Law at 9. Plaintiffs further aver that the credibility of the form used to amend the title officer's original determination ought to be decided at trial, not in a motion for summary judgment. *Id*.

The application of due process is governed by Section 501 of the Covenant between the Commonwealth and the United States, declaring that the Fourteenth Amendment, § 1 applies to the Northern Mariana Islands as if they were one of the several states. *See Commonwealth v. Atalig*, 723 F.2d 682, 685 (9th Cir. 1984). Article I, section 5 of the CNMI Constitution provides: "[n]o person shall be deprived of life, liberty or property without due process of law." *See* N.M.I. Const. art. I, § 5; *see also In re Semen*, 3 N.M.I. 57 (1992). Like the due process provisions of the Fifth and Fourteenth Amendments to the U.S. Constitution, this provision contains both procedural and substantive components. *See Moreno v. Wyo. Dep't of Taxation*, 775 P.2d 497, 500 (Wyo. 1989).

In *Aldan*, 794 F.2d at 1372, the Ninth Circuit addressed the issue of whether defendants were denied due process of law by the trial court's reliance on the T.T. Land and Claims Office decisions. In *Aldan*, the Court saw no basis for doubting the Land Office's declaration that proper public and private notice had been given. *Id*. at 1373.

Here, as in *Aldan*, the declaration in A.T.D. 577 states that "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" Lots 1684 and 1697 was the property the N.K.K. and then vested in the T.T. Government. *See* Stip. Ex. Y. The record does not support Plaintiffs' claim that Arriola was not accorded due process. To the contrary, Arriola himself must have had knowledge of the effect of A.T.D. 577 when he acknowledged that Lot 1684 (one of the two lots at issue) belonged to the Government on July 23, 1955, less than two months after A.T.D. 577 became final. *See* Stip. Ex. M, T. If Arriola was so concerned that A.T.D. 577 was erroneously issued, as Plaintiffs claim, he would have presumably appealed that determination within the one year statute of limitations, and not acknowledge that the Government had title to Lot 1684. Clearly, Plaintiffs' predecessor in interest, Arriola, had notice of A.T.D. 577 and as such, the court finds that Plaintiffs were not denied due

process of law. Accordingly, the court finds that A.T.D. 577 was properly issued with due notice provided to Plaintiffs and therefore, was not void on due process grounds.

The second consideration is whether the record is adequate to support the issuance of A.T.D. 577. A careful review of the Stip. Facts & Ex. establishes that Lots 1684 and 1697 were leased to Arriola by the N.K.K., a Japanese company, prior to the U.S. invasion of Saipan and thus vested in T.T. Government. *See* Stip. Ex. B, I, Y. Also, subsequent land transactions between the Government and Arriola reveal that Arriola did not raise issue regarding his claims to Lots 1684 and 1697 after June 9, 1954. *See* Stip. Ex. M, T. Surely, the record is adequate to support the agency's decision to amend T.D. 577 by issuing A.T.D. 577.

The third consideration is whether according A.T.D. 577 res judicata effect would override public policy. In 1953 following World War II, the T.T. Government enacted Regulation No. 1 for the purpose of establishing an administrative procedure for the determination of land ownership of privately-held lands. The public policy was to give the T.T. Land and Claims Office and title officers, in particular, the authority to issue determinations of ownership of such lands through an administrative adjudicative-type setting. In addition, the regulation accorded those who were dissatisfied with a title determination to appeal the administrative ruling within one year of its issuance. Upholding the finality of A.T.D. 577, as a final administrative ruling issued pursuant Regulation No. 1, would be consistent with existing public policy to give due regard and respect to such administrative rulings which were not appealed within the one year statute of limitations. To do otherwise would result in the filing by a multitude of claimants seeking judicial intervention in overturning decisions which were conclusively adjudicated many years past.

The final consideration is whether applying res judicata would not result in a manifest injustice. Plaintiffs had adequate time to protect their interests in the properties at issue, simply by appealing the determination pursuant to § 14 of Regulation No. 1. Plaintiffs, and in particular, Arriola, however, chose not to bring any action after the issuance of A.T.D. 577. Plaintiffs cannot now, after more than forty-five years, file a claim on a title determination that should have been brought within one year from its issuance.

For the foregoing reasons, the court finds that there is no basis to set aside A.T.D. 577. As such, A.T.D. 577 is the final administrative ruling regarding the determination of ownership to Lots 1684 and 1697 and should therefore be accorded res judicata effect.

C. Plaintiffs have no Adverse Possession Claim Against the CNMI.

The second question is whether Plaintiffs can assert an adverse possession claim against the CNMI under 7 CMC § 2502.[13] *See* Pls.' Mem. of Law at 10. Plaintiffs argue that the CNMI Government never had title to the properties because the German Government gave the properties to Plaintiffs in 1908, and Plaintiffs maintained possession (open, notorious, exclusive, and hostile) up to the present time. *Id*. Plaintiffs contend that because the Government never had title to the properties, 7 CMC § 2502 applies. Pls.' Mem. of Law at 11. On the other hand, Defendants claim that a Japanese company owned these properties and therefore they escheated to the T.T. Government. *See* Defs.' MSJ at 3. The court agrees with Defendants.

The CNMI government is not expressly included in any of the statutory limitations upon civil actions under 7 CMC § 2502. Accordingly, in all proceedings, the rules of the common law, as expressed in the restatements of the law approved by the American Law Institute and, to the extent not so expressed as generally understood and applied in the United States, shall be the rules of decision in the courts of the Commonwealth. *See* 7 CMC § 3401; *see also Trinity Ventures, Inc. v. Guerrero*, 1 N.M.I. 54, 61 (1990); *Ada v. K. Sadhwani's, Inc.*, 3 N.M.I. 303, 308 (1992); *Castro v. Hotel Nikko Saipan, Inc.*, 4 N.M.I. 268, 272 n.5 (1995). As a general rule, a statute of limitations does not operate against the state and title to state-owned lands cannot be acquired by adverse possession while the state retains its title. *See Commonwealth v. Atalig*, Civ. No. 96-0675 (N.M.I. Super. Ct. July 6, 2000) (Decision and Order) (*citing Pretzer v. Lassen*, 479 P.2d 430, 431 (Ariz. 1971)); *see also Oaksmith's Lessee v. Johnson*, 92 U.S. 343, 23 L. Ed. 682 (1875); *United States v. California*, 332 U.S. 19, 67 S. Ct. 1658, 91 L. Ed. 1889 (1947). Moreover, individuals cannot adversely possess land against the United States. *See Yamashita* v. *People of Guam*, 59 F.3d 114 (1995); *see also United State v. Vasarajs*,

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[13] 7 CMC § 2502 Limitation of Twenty Years, provides that:

(a) The following actions shall be commenced only within 20 years after the cause of action accrues:

(1) Actions upon a judgment.

(2) Actions for the recovery of land or any interest therein.

(b) If 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.

908 F.2d 433 (1990).

In the present case, Plaintiffs do not quarrel with the principles regarding adverse possession, but instead argue that they have title to Lots 1684 and 1697 as a gift from the German Government and that Defendants never had true title to the properties. *See* Pls.' Mem. of Law at 10. In reviewing the pleadings and stipulated facts and exhibits in this case, the court finds that the CNMI received title to the properties pursuant to A.T.D. 577. When Title Officer Wood issued the Determination of Ownership on September 1, 1953, the Land and Claims Office had one year to amend the Determination pursuant to Regulation § 14 before it became final. *See* Regulation No. 1; Stip. Ex. X. Here, Title Officer Raker amended T.D. 577 on June 9, 1954, apparently to correct a mistake, well within the one year time frame and determined that Lots 1684 and 1697 were the properties of N.K.K., a Japanese company, and therefore they escheated to the T.T. Government. *See* Defs.' MSJ at 3; Pls.' Mem. of Law at 2; Stip. Ex. Y. Because A.T.D. 577 was never appealed, title to Lots 1684 and 1697 vested in the Government. As such, the court finds that Plaintiffs have no adverse possession claim against Defendants.

VI. CONCLUSION

For the foregoing reasons, the court finds that A.T.D. 577 was validly issued as a final administrative ruling; that Plaintiffs were not denied due process; that the record adequately supports its issuance; and that it did not contravene any overriding public policy or result in manifest injustice. Therefore, Plaintiffs are precluded under principles of administrative res judicata from relitigating the validity of A.T.D. 577.

The court further finds that Plaintiffs have no adverse possession claim to Lots 1684 and 1697 against the Government as they were not determined to be the rightful owners of said lots pursuant to A.T.D. 577. Accordingly, Defendants' Motion for Summary Judgment is hereby **GRANTED**, and Plaintiffs' Cross-Motion for Summary Judgement is hereby **DENIED.**

SO ORDERED this 12th day of September 2002.

/s/ Virginia S. Sablan-Onerheim
VIRGINIA S. SABLAN-ONERHEIM, Associate Judge