



By the order of the court, Judge David A Wiseman

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FOR PUBLICATION



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

ROMA P. KING, MARY CHRISTINE P. )  
KING, and ANGELICA ISABEL P. )  
KING, and STEPHANIE P. KING, )  
Minor Children, by and through their )  
Next Friend MARLEEN P. KING, )

CIVIL CASE NO. 05-0219

ORDER DENYING DEFENDANTS'  
MOTION TO DISMISS THE FIRST  
AMENDED COMPLAINT

Plaintiffs,

v.

JESSE S. PALACIOS, RAMON K. )  
QUICHOCHO, DIEGO LEBANTE, and )  
JOHN DOES 1-10, namely the Agents )  
and assigns of Defendants Palacios, )  
Quichocho, and Lebante, )

Defendants.

I. INTRODUCTION

THIS MATTER came to the Court's attention on April 24, 2014, at 1:30 p.m. in Courtroom 223A upon Plaintiffs' representation that a number of matters remain pending before this Court.<sup>1</sup> Plaintiffs Roma P. King and others were represented by Attorney Mark B. Hanson ("Hanson"). Defendant Ramon K. Quichoco ("Quichocho") appeared pro se. The pending motions are: (1) Defendants' Motion to Reconsider the Court's July 13, 2006 Order; (2) Plaintiffs' Motion to Disqualify Antonio M. Atalig; (3) Defendants'

<sup>1</sup> A review of the court records shows that the matter was assigned to the undersigned judge in May of 2006. The matter was then once assigned to the Honorable Judge Govendo on Defendants' motion to disqualify the undersigned judge. *King v. Palacios*, Civ. Case No. 05-0219 (NMI Super. Ct. Dec. 20, 2006) (Order Denying Defendant's Motion to Disqualify Judge David Wiseman). The case was re-assigned to the undersigned judge and set for status conference on December of 2006. (Order Setting Status Conference). The Court takes judicial notice that during some of the time between 2006 and the present day, Defendants' attorneys were subject to disciplinary proceedings. Both of Defendants' attorneys have since been disbarred from the practice of law before the courts of the Commonwealth. On September 13, 2013, Quichocho filed a motion for failure to prosecute. The Court denied Quichocho's motion on April 24, 2014. There, the Court identified a number of factors that contributed to the delay in the disposition of some of the issues in the case. One was the untimely death of a grantor in 2007. Another was the conduct of Defendants' attorneys prior to their disbarment. Third, there were some uncertainties relating to withdrawal of the Plaintiffs' initial attorney. (Order Denying Defendant's Motion to Dismiss at 4).

1 Motion to Dismiss the First Amended Complaint; (4) Plaintiffs’ Motion for Summary Judgment; (5)  
2 Defendants’ Cross-Motion for Summary Judgment.

3 In this order, the Court addresses Defendants’ motion to dismiss the first amended complaint.  
4 Defendants filed their motion on October 25, 2005. According to Plaintiffs, the Court has yet to issue an  
5 order in this matter. *King v. Palacios*, Civ. No. 05-0219 (Super. Ct. Mar. 16, 2006) (Emergency Mot. for  
6 Extension of Time to File Reply and Opp’n Re: Motion and Cross-Mot. for Summary Judgment at 3). As  
7 such, Defendants have yet to file a responsive pleading in this case.

8 Based on review of the filings and applicable law, the Court hereby **DENIES** Defendants’ motion  
9 to dismiss the first amended complaint.

## 10 II. BACKGROUND

11 Plaintiffs allege that they are owners of certain parcels of land pursuant to Deeds of Gift from their  
12 father, Jose Borja King (“Jose”). The two lots subject to the instant dispute are (1) Lot 003 T 048, formerly  
13 known as Lot 6 Block 15, located in Tinian; and (2) Lot 006 T 218, also located in Tinian.

### 14 **A. Conveyance of the Disputed Properties to Plaintiffs**

15 Plaintiffs allege that Jose owned title to the two properties in fee simple, but executed a number of  
16 deeds of gift with Plaintiffs as beneficiaries. Regarding Lot 003 T 048, Jose twice executed deeds of gift  
17 conveying the properties to his children. In 1996, Plaintiffs allege that Jose executed a deed of gift conveying  
18 Lot 003 T 048 to Plaintiff Angelica Isabel P. King (“Angelica”). 7 years later, in 2003, Plaintiffs allege that  
19 Jose executed another deed of gift conveying said lot to Plaintiffs Roma P. King (“Roma”), Mary Christine  
20 P. King (“Mary”), Angelica, and Stephanie P. King (“Stephanie”).<sup>2</sup> Plaintiffs allege that both deeds of gift  
21 were recorded in the Commonwealth Recorder’s office.

22 Regarding Lot 006 T 218, Plaintiffs allege that Jose executed a deed of gift also conveying said lot  
23 to Plaintiffs Roma, Mary, Angelica, and Stephanie. Plaintiffs also allege that said deed was recorded in the  
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25 <sup>2</sup> Plaintiffs allege that Angelica and Stephanie were minors at the time of filing the first amended complaint.

1 Commonwealth Recorder's Office.

2 **B. Conveyance of the Properties to Persons Other than Plaintiffs**

3 Plaintiffs allege that Jose became seriously ill in 2004. At that time, Jose executed a General Power  
4 of Attorney to Quichocho. Plaintiffs allege that Quichocho, acting under the Power of Attorney and in  
5 collaboration with his brother-in-law, Defendant Diego Lebante ("Diego"), then executed real property  
6 transactions conveying Jose's "ownership interest" in Lot 003 T 048 and Lot 006 T 218 to Defendant Jesse  
7 S. Palacios ("Jesse") pursuant to quit claim deeds. Plaintiffs allege that the quit claim deeds were recorded  
8 in the Commonwealth Recorder's Office.

9 Plaintiffs allege that Defendants collected and retained rents from the tenants of Lot 003 T 048 and  
10 Lot 006 T 218. Plaintiffs also allege that Defendants may have made claims with FEMA, the Federal  
11 Emergency Management Agency, for typhoon damage. Plaintiffs also allege that Defendants padlocked the  
12 premises and prevented them from using or occupying the premises. Plaintiffs also allege that Quichocho  
13 physically and/or verbally attempted to evict Plaintiffs and called the police to arrest Plaintiffs on their  
14 (allegedly) own land. Among other relief, Plaintiffs seek to quiet title and obtain damages from Defendants.

15 In response, Defendants filed a motion to dismiss to dismiss the complaint under Rule 12(b)(6) of  
16 the Rules of Civil Procedure for failure to state a cause of action.<sup>3</sup>

17 **III. LEGAL STANDARD**

18 In order to prevail on a Rule 12(b)(6) motion, the movant has the burden to show that a pleading is  
19 not sufficient under Rule 8(a) of the Commonwealth Rules of Civil Procedure. A pleading may sufficiently  
20 comply with Rule 8(a) in two ways. *Atalig v. Mobil Oil Mariana Islands, Inc.*, 2013 MP 11 ¶ 23. A pleading  
21 may contain direct allegations of fact as to every material point, even though it may not be the theory  
22 suggested or intended by the pleader. *Id.* Or a pleading may contain allegations from which a fact-finder

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24 <sup>3</sup> Defendants appear to also argue their motion under Rule 12(f) of the Rules of Civil Procedure. Defendants Notice of  
25 Motion as filed on October 25, 2005 does not contain reference to Defendants' arguments under Rule 12(f). Therefore, the Court  
does not entertain Defendants' arguments under Rule 12(f). Defendants' motion fails to comply with the particularity requirements  
set forth under Rule 7(b) of the Rules of Civil Procedure.

1 could reasonably infer that the necessary evidence will be introduced at trial. *Id.* A pleading may not contain  
2 allegations of fact that are purely speculative. *Id.* But in construing the allegations contained in the pleading,  
3 the Court assumes them to be true. *Id.* (citing *Syed v. Mobil Oil Mariana Islands, Inc.*, 2012 MP 20 ¶ 22).  
4 However, the Court will not strain to find an inference favorable to the non-moving party. *Id.*

#### 5 **IV DISCUSSION**

6 Defendants, in essence, raise two arguments to persuade this Court to grant their motion to dismiss.  
7 Defendants argue that Plaintiffs lack standing to sue under a quiet title theory as to Lot 003 T 048. Second,  
8 Defendants argue that Plaintiffs only bring a claim for a quiet title action and that Quichocho and Lebante  
9 should be dismissed from the suit. The Court is not persuaded by Defendants' arguments on either ground.

10 Defendants argue that Plaintiffs lack standing because their quiet title claim as to Lot 003 T 048 is  
11 actually a claim for Lot 6 Block 15 – and Lot 6 Block 15 does not exist. However, Plaintiffs allege in their  
12 first amended complaint that Lot 003 T 048 was formerly known as Lot 6 Block 15. In ruling on a motion  
13 to dismiss, the Court considers Plaintiffs' factual allegations as true. *Atalig*, 2013 MP 11 ¶ 23. Accordingly,  
14 even if Plaintiffs' allegations were false, at this stage in the litigation, the Court's primary concern is  
15 evaluating the sufficiency of the pleading – not the merits of it.<sup>4</sup> Therefore, the Court is not persuaded by  
16 Defendants' argument on this ground.

17 Regarding the issue of whether Quichocho and Lebante should be dismissed, the Court similarly  
18 remains unpersuaded. Defendants claim that Quichocho and Lebante should be dismissed from the suit  
19 because they do not have any interest or claim in either Lot 003 T 048 or Lot 006 T 218. However, in  
20 arguing so, Defendants presume that Plaintiffs bring solely a quiet title action against Jesse. A pleading  
21 merely needs to contain allegations of fact sufficient to support a cause of action, even if the pleading does  
22 not suggest or intend the cause of action. *Atalig*, 2013 MP 11 ¶ 23. Plaintiffs, in their opposition, argue that  
23 they have valid claims against Quichocho and Lebante under a slander of title theory or interference with

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25 <sup>4</sup> Accordingly, the Court finds that Defendants' request that the Court find that Jesse is a bona fide purchaser of value to be misplaced.

1 the quiet enjoyment of real property. Defendants complain that Plaintiffs are “just throwing spaghetti on  
2 the wall and hoping something will stick.” Defs’ Memo. at 9. Even if that were true, Commonwealth’s Rule  
3 12(b)(6) jurisprudence follows liberal notice pleading standards. But see *Syed v. Mobil Oil Marianas, Inc.*,  
4 2012 MP 20 ¶ 20 (“A plaintiff may not, as a result, set the machinery of the judiciary into motion with a  
5 ‘short and plain statement’ lacking either sufficient factual accompaniment or a clear assertion of the claims  
6 presented.”). It is the defendant’s burden to show that a plaintiff failed to plead sufficient facts that would  
7 provide him or her relief – simply stating so is not enough under Rule 12(b)(6). Here, Defendants did not  
8 meet that burden.<sup>5</sup> Therefore, the Court denies Defendants’ motion to dismiss the first amended complaint.

### 9 V. CONCLUSION

10 Based on the foregoing, Defendants’ motion to dismiss the first amended complaint is **DENIED**.  
11 Defendants may file an answer pursuant to the Rules of Civil Procedure (“Rules”). However, in light of the  
12 unique situation of this case, some modifications are warranted. Both of Defendants’ lawyers have been  
13 disbarred from the practice of law before the courts of the Commonwealth. Accordingly, the Court will  
14 expand the time required for filing an answer to no later than thirty-days from the issuance of this order. If  
15 no answer is filed, the Court will entertain the appropriate motions for entry of default pursuant to the Rules.

16 The Court will defer issuing a ruling on the pending motion and cross-motion for summary judgment  
17 until one or more Defendants file said answer.

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19 **SO ORDERED** this 13<sup>th</sup> day of May, 2015.

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22 / s /  
David A. Wiseman, Associate Judge

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25 <sup>5</sup> In their reply brief, Defendants argue that the Court should treat their motion to dismiss as a motion for summary judgment because they included matters outside the pleading. Whether to view the motion to dismiss as a motion for summary judgment is a choice reserved for the trial court. See *PAC United Corp., Ltd. (CNMI) v. Guam Concrete Builders*, 2012 MP 15 ¶ 13. This Court declines to view Defendants’ motion to dismiss as a motion for summary judgment at this time.