

MARTHA C. MAGOFNA and NIEVES C. BLAS,
Plaintiffs-Appellees

v.

ALBIN SABLAN CABRERA, Defendant-Appellant

Civil Appeal No. 250

Appellate Division of the High Court

Northern Mariana Islands District

September 14, 1981

Appeal from a judgment of the Trial Division concerning the distribution of certain war claim monies. The Appellate Division of the High Court, Gianotti, Associate Justice, held that Trial Court's refusal to allow any evidence regarding an alleged *partida*, on the basis that the decision of the Claims Commission was final, was erroneous, and therefore case was remanded with the instruction that such decision be reviewed.

1. Appeal and Error—Generally

On appeal to the Appellate Division, the burden is upon the appellant to enumerate alleged errors, show specifically wherein the action complained of is erroneous, and show that such errors substantially prejudiced the rights of the appellant.

2. Administrative Law—Judicial Review—Conclusiveness of Decision

Courts of the Trust Territory are not precluded by the finality provision of the Micronesian Claims Act from making determinations as to the rightful recipients of the Commission's awards.

3. Administrative Law—Judicial Review—Conclusiveness of Decision

Ruling of Trial Court that a decision of the Claims Commission was final and not subject to review was erroneous.

Counsel for Appellant:

*Office of the Public Defender,
Saipan, CM 96950*

Counsel for Appellees:

MICHAEL A. WHITE, P.O. Box
222 CHRB, Saipan, CM 96950

Before BURNETT, *Chief Justice*, GIANOTTI, *Associate Justice*

GIANOTTI, *Associate Justice*

This is an appeal from a judgment of the Trial Division concerning the distribution of certain war claim monies in

the Northern Mariana Islands. Neither party chose to file briefs and the case is submitted upon the record without oral argument.

Appellant has raised two grounds for his appeal. First, he contends his motion to dismiss the action should have been granted,

. . . for failure by plaintiffs in not representing the real parties in interest pursuant to Rule 17 and failure of plaintiffs to join certain indispensable parties pursuant to Rule 19, all of which divested the Court of jurisdiction.

[1] The only written evidence to be found in the record of jurisdiction or the rights of the parties to bring the action is contained in the complaint and answer. Jurisdiction is alleged in paragraph I of the complaint and the right of respective plaintiffs to bring this action is alleged in paragraph II of the complaint. Defendant-appellant raised no objection and in fact admitted plaintiffs' contentions in the answer. The Court has scrutinized the record and finds it void of sufficient evidence to reverse the judgment upon the reasons contained in appellant's first grounds of appeal. As state in *Basilio v. Metsifista*, 7 T.T.R. 247,

The burden is upon the appellant to enumerate alleged errors, show specifically wherein the action complained of is erroneous, and show that such errors substantially prejudiced the right of the appellant. Appellate Courts are required to make every inference in favor of the correctness of the Trial Court. *In re Estate of Wisley*, 5 T.T.R. 81.

See also *Bwanus v. Metsifista*, 7 T.T.R. 248.

[2] Appellant's second ground of appeal concerns an alleged *partida*. The Trial Court refused to allow any evidence regarding the alleged *partida*, holding, in its judgment,

It is by now well settled that the decisions of the Claims Commission are final, and are not subject to review by this Court. . . .

OTIWII v. NGIREKLEI

However, this Court is bound to accept its decision. [referring to the Claims Commission]

On January 29, 1979, this Court ruled in the case of *Ngikleb v. Ngirakelbid*, Civil Appeal No. 184:

We hold only that the courts of the Trust Territory are not precluded by the finality provision of the Micronesian Claims Act from making determinations as to the rightful recipients of the Commission's awards.

[3] The holding of the Trial Court in this immediate case was erroneous when it ruled that the decision of the Claims Commission was final. Such ruling is not in conformity with the appellate decision just stated. Therefore, we remand this case to the Trial Court with the instruction that the decision of the Claims Commission as to distribution of the monies be reviewed in conformity with the *Ngikleb* opinion.

DAVID OTIWII, Plaintiff-Appellee

v.

EMILIANO NGIREKLEI, Defendant-Appellant

Civil Appeal No. 270

Appellate Division of the High Court

Palau District

September 22, 1981

Motion to reverse and remand the Judgment of the Trial Division. The Appellate Division of the High Court, per curiam, held that the Appellate Division had authority to reverse and remand under Appellate Rules based on an appropriate motion before the Court, and that there were sufficient facts warranting reversal and remand to the Trial Division to review the matter.

1. Appeal and Error—Scope of Review

Appellate Division has the authority in certain situations to reverse and remand based on an appropriate motion before the Court. (TT Rules App. Proc., R. 7)