## TRUST TERRITORY OF THE PACIFIC ISLANDS, Defendant-Appellant

V.

## MARIA P. TUDELA, Plaintiff-Appellee

Civil Appeal No. 251

Appellate Division of the High Court

Northern Mariana Islands District

January 27, 1983

Appeal from finding in favor of claimants in action brought to recover certain real property, or in the alternative, damages for its loss, against the Trust Territory. The Appellate Division of the High Court held that statute of limitations was not a bar to the action, since the statute did not begin to run until the claimant learned the land had been sold by the government to a third party, and therefore judgment was affirmed.

## 1. Limitation of Actions-Recovery of Land

The statute of limitations begins to run in a land case when the land owners are put on notice. (6 TTC § 302)

## 2. Limitation of Actions-Recovery of Land-Particular Cases

Statute of limitations was not a bar to an action against Trust Territory to recover certain real property or, in the alternative, damages for loss of the property, where claimant believed the land to be family property, and issue of ownership never arose until claimant learned the land had been sold by the government to a third party, at which time the statute began running. (6 TTC § 302)

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Before BURNETT, Chief Justice, NAKAMURA, Associate Justice

This action was originally brought to recover certain real property or, in the alternative, damages for the loss of said property, located in Garapan on the Island of Saipan. The Trial Division found in favor of the land claimants and ordered further hearings into the matter of damages incurred by said claimants for the loss of said real property. We find no justification to reverse the findings of the Trial Division.

Despite the contentions of the appellant, the statute of limitations does not apply.

It is extremely difficult to determine what appellant's argument for reversal is without a closer examination by this court of the facts contained in the trial transcript, exhibits, and file. As an appellate court, we are not required to make this examination and have so stated on any number of occasions. Also, we believe at this time comment should be made that appellant on occasion has been successful in land-type actions using the identical appellant brief filed. However, in the immediate case a historical account of the land problems existing in Saipan before, during and after World War II does not face or answer the issues.

In the immediate case it is questionable, if not extremely doubtful, whether appellee's ancestors ever relinquished ownership of the land in question. It is also somewhat questionable whether the land remained in the appellee's family before or during the war. Believing this land to be "family" property, the issue of ownership never arose until 1972 when appellee learned the land had been sold by the government to a third party.

This being a suit for the recovery of land, appellee's action could only be barred by the passage of the time period provided for in 6 Trust Territory Code section 302:

"LIMITATION OF TWENTY YEARS.—(1) The following actions shall be commenced only within twenty years after the cause of action accrues:

- (a) Actions upon a judgment;
- (b) Actions for the recovery of land or any interest therein."
- [1] The statute of limitations begins to run in a land case when the land owners are put on notice.

See *Muna*, et al. v. *Trust Territory*, et al., 7 T.T.R. 531, which holds the mere recording of documents does not start the statute of limitations running until the appellants are put on notice.

[2] We also apply that finding here, i.e., until the appellee was put on notice of the sale of the land, the statute of limitations did not begin to run and even in such event, the twenty-year statute, 6 TTC § 302, would apply.

We note this court's holding in *Royse v. Trust Territory* (Civil Appeal No. 217) that laches could bar an action under certain circumstances. Even if the defense of laches had been raised in the immediate case, we find a vast difference in the factual situation as appellee here did not neglect for an unreasonable length of time to bring this action.

"In accordance with the established general rule the statute of limitations does not commence to run against the right to recover the possession of real property until the cause of action accrues." 51 Am. Jur. 2d Limitation of Actions § 120.

Even as alleged by appellant that appellee's mother received adequate legal notice of the government policy of land distribution, appellee's mother was under no legal obligation to do anything about said land where she had an honest belief that the said land had always been within the family ownership.

In conclusion, in affirming the trial court, we suggest that should a similar situation arise in the Appellate Division of the High Court at some future date, the appellant should by brief or memorandum raise the legal questions rather than rely on the court to ascertain these questions and issues after delving through a myriad of inapplicable historical fact.

GEORGE G. KISKADDON, et al., Plaintiffs-Appellants

EDWARD B. JOHNSTON, et al., Defendants-Appellees
Civil Appeal Nos. 318 & 322
Appellate Division of the High Court
Saipan, Mariana Islands District
January 28, 1983

Appeal from judgments of dismissal. The Appellate Division of the High Court, Gianotti, Associate Justice, held that the Appellate Court had no obligation or power to comply with appellants' request for reexamination of the evidence before the trial court, and therefore trial court's judgment was affirmed.

Appeal and Error-Scope of Review-Weight of Evidence

Appellate Division of the High Court has no obligation or power to comply with requests on appeal to reexamine the evidence presented in the lower court.

Before MUNSON, Chief Justice, GIANOTTI, Associate Justice, and LAURETA, Designated Judge

GIANOTTI, Associate Justice

This appeal lies from certain findings of fact and conclusions of law entered by the Trial Division of the High Court June 28, 1979, and amended September 18, 1979, wherein Trial Division awarded judgments of dismissal to all defendants.

A discussion of the factual background of this case is unnecessary as the facts have been fully presented not only in the Trial Division record but in the various briefs and arguments filed by counsel.