IN THE

Supreme Court

OF THE

Commonwealth of the Northern Mariana Islands

PAUL A. MANGLOÑA,
Plaintiff-Appellant,

v.

PRISCILLA M. TORRES, THOMAS A. MANGLOÑA, THE ESTATE OF BERNADITA A. MANGLOÑA, ET AL.,
Defendants-Appellees.

Supreme Court No. 2019-SCC-0011-CIV

OPINION

Cite as: 2021 MP 4

Decided February 15, 2021

MARIA T. CENZON, JUSTICE PRO TEMPORE
ELYZE M. IRIARTE, JUSTICE PRO TEMPORE
BENJAMIN C. SISON, JR., JUSTICE PRO TEMPORE

Superior Court Civil Action No. 17-0140
Judge Pro Tempore David A. Wiseman, Presiding

CENZON, J.P.T.:

¶ 1 Plaintiff-Appellant Paul A. Manglona ("Manglona") appeals the trial court's decision denying his action for quiet title and slander of title and dismissing with prejudice his statute of limitations, laches, and adverse possession defenses. Manglona argues that the trial court abused its discretion by not granting him additional time to disclose a rebuttal handwriting expert in this action where the Defendant-Appellees contend that the conveying instrument was a forged deed. Manglona also argues that the trial court erred in ruling that a claim of forgery is not barred by any applicable statute of limitations. For the following reasons, we AFFIRM the trial court's decision.

I. FACTS AND PROCEDURAL HISTORY

¶ 2 This quiet title action arises from a dispute over certain real property in Saipan, namely Lot 026 E 01, Capitol Hill, Saipan ("the Property"). Manglona claims ownership of the Property pursuant to a Deed of Gift purportedly signed on July 11, 1985 ("1985 Deed") by his mother Bernadita ostensibly conveying the Property to him.

¶ 3 On June 14, 2017, Manglona filed this action against the Defendant-Appellees Co-Administrators of the Bernadita A. Manglona ("Bernadita") Estate and Priscilla M. Torres ("Priscilla") and Thomas A. Manglona ("Thomas"), in their individual capacities (collectively, "Defendants"). On July 6, 2017, the Defendants answered by contending that the 1985 Deed was a forgery and, therefore, void *ab initio*. The Defendants also assert that at least fifty percent (50%) of the Property had already been transferred to the Defendants in equal shares through a July 26, 2013 Deed of Gift ("2013 Deed") from Bernadita's husband Prudencio T. Manglona who had a fifty percent (50%) marital property interest in the Property.[1]

¶ 4 By the court's November 2017 Pretrial Order, the parties were ordered to complete discovery by January 2, 2018, and trial was scheduled for February 20, 2018. *Manglona v. Torres*, Civ. 17-0140 (NMI Super. Ct. Nov. 22, 2017) (Pretrial Order). The Pretrial Order provided specifically that "if any party intends to call an expert that party shall notify the other party and the Court of their intention to do so on or before January 2, 2018." *Id.* at 2. The party calling any rebuttal experts was to identify its experts to the court and the opposing party by January 9, 2018. At the time of disclosure, the disclosing party was required to provide the minimum information required by NMI R. CIV. P. 26(b)(4). The Pretrial Order further commanded that, at the pre-trial conference on February 2, 2018, "the parties must confirm to the court that they are prepared to proceed to

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[1] The 2013 Deed is not before this Court on appeal; however, it was considered by the trial court in denying Manglona's claim for slander of title. *See Manglona v. Torres,* Civ. 17-0140 (NMI Super. Ct. May 13, 2019) (Findings of Fact and Conclusions of Law at 25) ("Findings").

trial. Such confirmation implies that they have the witnesses necessary to present its case available." *Id.*

¶ 5 On January 2, 2018, Manglona served an expert witness interrogatory request to the Defendants; however, the Defendants did not disclose their expert until January 19, 2018, seventeen (17) days after the deadline set in the Pretrial Order. Manglona objected to the tardy filing and, at the February 2 pretrial conference, sought to exclude the Defendants' expert.

¶ 6 The trial court denied Manglona's request to exclude the Defendants' expert, finding that "[i]t has been apparent to the parties and the undersigned judge *for years* that expert testimony would be elicited in this quiet title action. . ." and that the failure (on both sides) to identify any handwriting experts was a mutual game of "gotcha" which frustrated the trial court's rulings governing expert disclosure deadlines. *Manglona v. Torres*, Civ. 17-0140 (NMI Super. Ct. Feb. 5, 2018) (Order After Pretrial Conference at 7-8) (the "February 5 Order") (emphasis added). Manglona agrees that the parties have had years to prepare expert witnesses in order to resolve this dispute over a forged deed. Appellant's Br. at 16.

¶ 7 Notwithstanding the trial court's admonition, it extended the deadlines, however briefly, and the Defendants were ordered to provide Manglona a summary of facts and the basis of their expert's opinions by February 9, 2018. February 5 Order at 8. Manglona was required to then disclose any rebuttal expert by February 12, 2018. *Id.* at 9.

¶ 8 The trial began on February 20, 2018; however, despite the trial court's February 5 Order establishing clear deadlines, Manglona sought a continuance in order to obtain a rebuttal expert. *See* Feb. 2018 Trial Tr. at 9. The trial court denied the request, finding that Manglona had more than sufficient notice and opportunity by the time of trial to hire a rebuttal expert. *Id*. at 10. During Manglona's case-in-chief, the Defendants conducted a direct examination of their handwriting expert Reed Hayes ("Mr. Hayes") and Manglona cross-examined him.[2]

¶ 9 On February 22, 2018, at the close of his case-in-chief, Manglona renewed his request for a continuance in order to hire an expert to rebut Mr. Hayes's testimony. While the trial court recognized that Manglona was entitled to present evidence on rebuttal, it denied his request to present an expert witness.[3] The trial

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[2] The Defendants' handwriting expert was taken out of order, with the trial court's permission, during the Plaintiff's case-in-chief.

[3] The trial court stated clearly, "[a]nd for the plaintiffs, if this trial is to continue, I am not going to allow any expert on rebuttal. To do so would be to circumvent the ruling the court already made when it denied you continuance request of the trial, so you could get an expert. So, that will be the court's decision on that point." Nov. 2018 Trial Tr. at 450.

court recessed and resumed on November 13, 2018.[4] During the period between February 22, 2018, when Manglona concluded his case-in-chief, and the resumption of trial on November 13, 2018 on the Defendants' case-in-chief, Manglona did nothing to advance any request for leave to retain an expert witness for rebuttal.

¶ 10 On rebuttal, Manglona did not call any witnesses and the trial court noted its "surprise[ ] that the Plaintiff did not procure an expert. Especially since the Defendant's [sic] were going to attack the 1985 Deed as a forgery with an expert." Findings at 21. The trial court noted further that Manglona did not call upon the notary whose stamp appears in the 1985 Deed and whose "testimony could have been persuasive and perhaps, even decisive for either party." *Id*.

¶ 11 At the conclusion of trial, the court ruled that the Defendants successfully rebutted the presumption of validity accorded to the 1985 Deed, that the Deed was a forgery and, as a consequence, "the 1985 Deed is a null and void transaction." *Id.* at 21. Because the 1985 Deed was void *ab initio*, no legal transaction is considered to have occurred; thus, the statute of limitations defense could not be invoked. *Id.* The trial court also rejected and dismissed Manglona's claims of laches, adverse possession and slander of title. *Id.* at 22-26.

¶ 12 Judgment was entered on July 17, 2019.[5] The trial court: (1) denied Manglona's claims for quiet title and slander, (2) denied Manglona's request for actual and special damages, (3) dismissed with prejudice Manglona's statute of limitations, laches, and adverse possession defenses, and, (4) declared the 1985 Deed conveying the Property a forgery, and thus, void *ab initio. Manglona v. Torres*, Civ. 17-0140 (NMI Super. Ct. July 17, 2019) (Judgment at 2). This appeal followed.

II. JURISDICTION

¶ 13 We have jurisdiction over final judgments and orders of the Commonwealth Superior Court. NMI CONST. art IV § 3.

III. STANDARD OF REVIEW

¶ 14 We confront two issues on appeal. We review the trial court's refusal to adjust deadlines and trial dates for an abuse of discretion. *Commonwealth v. Bordallo*, 1 NMI 208, 214 (1990). We also review the trial court's ruling rejecting the statute of limitations *de novo*. *Guerrero v. Quitugua*, 2000 MP 1

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[4] In the interim period from the close of Manglona's case-in-chief until the trial resumed in November, the Defendants filed a motion for a judgment on partial findings, which the trial court denied on June 1, 2018. On June 18, 2018, at a hearing before the trial court, the parties agreed to resume trial on November 13, 2018.

[5] On June 24, 2019, the trial court issued its Order Granting In Part and Denying In Part Plaintiff's Motion to Reconsider. However, this Order did not alter any of the Findings. *See Manglona v. Torres,* Civ. 17-0140 (NMI Super. Ct. June 24, 2019) (Order Granting In Part and Denying in Part Plaintiff's Motion To Reconsider) (the "June 24 Order").

¶ 5.

IV. DISCUSSION

A. Manglona did not waive his right to appeal the trial court's decision denying an extension of time to identify an expert witness.

¶ 15 As a preliminary matter, we reject the Defendants' contention that, by failing to object to the specific deadlines in the February 5 Order at the time the dates were issued, Manglona waived his right to appeal the trial court's decision denying his request for additional time to disclose his handwriting expert witness as an abuse of discretion. Appellee's Br. at 11. The February 5 Order memorializes Manglona's objection to the untimely disclosure of the Defendants' expert as well as his request for additional time to procure his own expert, both of which were advanced at the February 2, 2018 pretrial conference. Manglona again requested that he be permitted to hire an expert in the interim between the February and November continued trial, but the trial court rejected his request. Nov. 2018 Trial Tr. at 450. It is clear from the record that Manglona raised concerns about retaining an expert *in response to* the Defendants' expert both at the pretrial conference and at the trial. Feb. 2, 2018 Pre-Trial Hearing Tr. ("Feb. 2 Tr.") at 82-83. As such, we do not find a waiver on this basis.

¶ 16 The Defendants also argue that Manglona waived his right to appeal because he failed to sufficiently develop his argument that the trial court abused its discretion through citation to relevant legal authority and analysis. Appellee's Br. at 13-15. The Defendants also contend a waiver occurred because Manglona failed to make specific objections to the trial court's rejections of his requests for additional time.

¶17 Because we find no waiver of Manglona's objection to the trial court's expert witness deadlines set forth in the February 5 Order and address the issue on the merits, we need not reach the question of waiver on alternative grounds.

B. The trial court did not abuse its discretion by denying Manglona additional time to retain an expert.

¶ 18 Manglona argues that the trial court's February 5 Order limiting the time in which the parties had to disclose an expert was insufficient for him to secure a rebuttal handwriting expert and was, therefore, an abuse of discretion resulting in severe prejudice to him. Appellant's Br. at 14. Manglona's objection rests upon the lack of a report from the Defendants' expert which could be rebutted by his expert rather than a want of additional time in which to hire his own expert. However, Manglona's contention fails in many respects.

¶ 19 As mandated by the trial court, on February 9, 2018, the Defendants timely provided their expert's report and analysis. In contrast, nothing in the record shows that Manglona took any meaningful steps to comply with the February 5 Order. It is clear from the record that Manglona failed to secure a handwriting expert to rebut the Defendants' forgery claim despite that the validity of the 1985

Deed was at issue in several legal disputes, involving the same parties, over which the trial court presided.[6]

¶ 20 We find it significant that at no time between the hearing on November 15, 2017 and the court-ordered deadline of February 12, 2018 did Manglona disclose the identity of *any* expert witness who might have reviewed the same exemplars as the Defendants' expert (or, indeed, *any* exemplars) and formulate an opinion of his own. The Pretrial Order issued on November 22, 2017, provided seven (7) days from January 2, 2018 in which to notify the opposing party "of any new experts that may be called as a result of the opposing party's intended expert list." Pretrial Order at 2. The Pretrial Order also permitted the parties to request the court to change any of the deadlines and dates set forth in that order, including the expert witness deadlines, by December 15, 2017. *Id*. at 3. Neither party requested any extension or modification by that date.

¶ 21 By the February 2, 2018 pretrial conference, Manglona still had not procured an expert despite agreeing with the trial court that both parties knew, without a doubt, that the trial court required expert testimony from both Manglona and the Defendants in order to adjudicate the merits of Manglona's claim under the 1985 Deed. During the February 2, 2018 pretrial conference, the following exchange occurred:

> THE COURT: Alright. In any event -- alright, so that's with the expert witness. But it's no surprise to anyone, either party, that this case from the beginning, it was almost like a prerequisite to proof under the claim that an expert witness would be required. Mr. Scoggins, do you agree with that?
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> MR. SCOGGINS: Yeah, your Honor, I do agree. I think it always was understood that that was going to happen and I wasn't involved in the probate earlier but it was my understanding that the administrators sought permission of the court to hire an expert. So, it was our intention to see what the expert had to say by January 2nd and then *if necessary*, get somebody to rebut it by the 9th which is what the [November 22] order required.
> Feb. 2 Tr. at 82-83 (emphasis added).

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[6] At the Defendants' request, the Court takes judicial notice of Civil Case Nos. 13-0195, 15-0082, and 16-0076 and recognizes that the trial court clearly imputed the parties' knowledge from their participation in those probate and civil matters to notice considerations in this dispute. *See* February 5 Order at 2 (referring to *In re the Estate of Bernadita A. Manglona*, Civil Case No. Civ. No. 13-0195, and other Civil Case Nos. 15-0082 and 16-0076 over which the trial court also presided); *See also Id.* at 8, n. 4 ("The Court again notes that the issue of the validity of Plaintiff's deed and the allegation that it is a forgery has been raised in the other related probate cases and quiet title actions. Everyone has been on notice of the dispute and claims of this case for years.").

Since neither party identified its expert by the deadlines set forth in the Pretrial Order, the trial court extended the deadlines without further objection.[7]

¶ 22 Despite the trial court's several warnings, declarations and admonitions that it expected and required expert testimony to determine whether Benita's signature on the 1985 Deed was a forgery, Manglona ignored the court's orders and declared that his intention was to make a determination *if* one was needed, based on his review of the Defendants' expert report. Manglona now asks this Court to find that the trial court abused its discretion by denying a continuance on the first day of the trial. Under the circumstances, this Court refuses to do so.

¶ 23 Manglona attempts to buttress his argument by defining a rebuttal expert as one who offers evidence which "is intended solely to contradict or rebut evidence on the same subject matter identified by another party." Appellant Br. at 16. Therefore, he posits, he was not required to identify a rebuttal expert because there was nothing to rebut. In order to adopt Manglona's interpretation, however, this court would have to ignore the record and the several orders mandating both of the parties to produce expert witnesses.

¶ 24 The Defendants' expert witness report (the "Hayes Report"), which was produced on February 9, contained between eighteen (18) and twenty (20) exemplars which were compared to Benita's signature. Manglona contended that more than one business day was necessary in order for his rebuttal expert to adequately review and analyze the particulars of the Hayes report and prepare a responsive counter-report. However, by the time of trial, he still had not hired an expert witness despite knowing that such witness would be necessary to rebut the Hayes Report. Nevertheless, he sought a continuance, if the Hayes Report would not be excluded, in order to hire the expert witness. The trial court again denied the request, finding that Manglona had more than ample time to prepare:

> THE COURT: Mr. Scoggins, if all other things were equal and then maybe allowed a merited argument, however, in this case, let's remember the main issue here which is the allegation that a deed from the late Bernadita Manglona to Paul Manglona, the plaintiff, was a forgery and this went back for at least three, four years ago when that first arose in one of the probate proceedings and was on numerous occasions always talked about. It came out with objection

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[7] During the February 2 pretrial conference, in arguing for the exclusion of the Defendants' expert because of the failure to produce the report, Manglona's counsel admitted that "we've known that they're going to try to get an expert who would say forgery *for years*." Feb. 2 Tr. at 78 (emphasis added). The trial court's frustration with both parties was palpable, calling both sides' arguments "disingenuous" and reiterating throughout its February 5 Order that "expert testimony would be elicited in this quiet title action." February 5 Order at 8. It concludes with the following admonition: "The Court reiterates that it expects the parties to work cooperatively with each other to ensure that both sides are ready to proceed to trial on February 20, 2018." *Id.*

> in the inventory in other matters. It was always a matter on the table and the plaintiff filed suit when the court decided that it could not have a quiet title action within the probate action. You filed suit and the whole suit again is based on trying to prove that the allegation of a forgery is -- has no merit, that the deed is a valid deed. And for that -- and even a year ago -- about a year ago, I authorized a request from defendants for expenses to have a handwriting expert, I mean, a handwriting expert. It was like, you know, the car is broken, you are going to need a mechanic at some point, I mean, you know this is -- that's the only issue up here. So I have a hard time finding that there was no preparation, that you are getting cut short at the last moment with the expert's report and so on. That's a problem I have with this argument. The only issue is whether or not the deed is a valid deed depending on a valid signature and the valid signature is dependent on expert testimony or lay witness testimony. Feb. 2018 Trial Tr. at 9-10.

¶ 25 Whether given a day, a week, or even a year, it is evident that Manglona would continue to contend that he was not given enough time to hire an expert; thus, we agree with the trial court that his argument is disingenuous.

¶ 26 Manglona asks this Court to follow its ruling in *Bordallo*, wherein we reversed the trial court's decision denying the defendant's motion to continue trial due to the unavailability of his expert witness. 1 NMI 208 (1990). We found therein that the trial court abused its discretion in denying the defendant's motion to continue trial after applying the four-factor test formulated by the Ninth Circuit of *diligence, usefulness, inconvenience* and *prejudice*. *Id.* at 219-220 (citing *U.S. v. 2.61 Acres of Land More or Less*, 79 F.2d 666, 671 (9th Cir.1985)).[8] Manglona's reliance on *Bordallo* is, however, misplaced.

¶ 27 Manglona has failed to articulate how applying the four factors of *Bordallo* would allow the Court to find in his favor. Indeed, the Court need not go beyond the first factor of *diligence* to reject Manglona's appeal on this basis. After the trial court issued its Pretrial Order, Manglona made no attempt to secure an expert nor did Manglona file any motions to mandate the Defendants' disclosure or seek an extension of the deadlines set forth therein. At the February 2, 2018 pretrial conference, Manglona did not indicate that he had secured an expert witness; he only sought the exclusion of the Defendants' expert based upon a weak

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[8] The four salient factors announced by the Ninth Circuit in *2.61 Acres of Land More or Less* include: (1) the extent of the appellant's diligence in his [or her] efforts to ready his [or her] defense prior to the date set for hearing; (2) how likely it is that the need for a continuance could have been met if the continuance had been granted; (3) the extent to which granting the continuance would have inconvenienced the court and the opposing party, including its witnesses; and, (4) the extent to which the appellant might have suffered harm as a result of the district court's denial. *See,* 791 F.2d at 671.

contention that there was no expert to rebut. After the court extended the deadlines once more, Manglona failed to make any attempts to secure a witness by the time of trial on February 20, and still no further efforts were made to hire a witness between the recess in February and the resumption of trial nine months later on November, 13, 2018.

¶ 28 In marked contrast with the appellant in *Bordallo*, Manglona did not have an expert who would have been prepared to testify at trial on February 20, as mandated by the trial court in the November 2017 Pretrial Order. Further, the record is replete with Manglona's dilatory preparations in light of the trial court's constant warnings that both parties were expected to produce expert witness testimony at trial.

¶ 29 The Court instead applies the factors we identified in *Fitial v. Kim Kyung Duk*, 2001 MP 09 (2001), to determine whether the trial court abused its discretion by denying Manglona's request for a continuance.

¶ 30 *Fitial* also employs a four factor analysis in reviewing a denial of a motion for continuance:

> (1) the movant's diligence in his efforts to ready his case prior to the hearing of the motion, (2) the likelihood that a continuance would have satisfied the need for one, (3) the extent a continuance would have inconvenienced the court and opposing party, and (4) the extent of harm the movant might have suffered due to his denial. *Id.* at ¶ 23.

No single factor is dispositive; instead, each one is weighed in determining whether the denial was unreasonable. *Id.*

¶ 31 Applying the first factor, the Court finds that Manglona was not diligent in his efforts to ready his case. He admits that he knew for years that the central issue involved in this matter was the authenticity of Bernadita's signature on the 1985 Deed and that this would have to be proven through expert witness testimony. In other words, Manglona knew for years, and at least certainly by the first pretrial conference on November 15, 2017, that he would need to rebut the Defendants' contention that Bernadita's signature was forged on the 1985 Deed. Subsequently, on February 2, 2018, Manglona was well aware of the trial court's expert witness deadlines and the trial court's admonishments regarding the need for expert witness testimony, yet waited until February 20, 2018, the day the trial was scheduled to commence, to move for a continuance in order to hire one. The Court finds that Manglona's clear ignorance of the trial court's mandates evidences a lack of diligence on his part. As such, the Court finds that this factor weighs against finding an abuse of discretion.

¶ 32 Second, even if Manglona was granted a continuance, we find that it would not have satisfied his need for one. The record is completely devoid of evidence that Manglona made any efforts in November 2017, January 2018, February 2018

or November 2018 that he was actively looking for an expert or that he had secured one by the time of rebuttal. By his own admissions, each time he sought consideration for additional time to secure an expert or objected to the Defendants' expert, whether he had a day or a week, or even years, the time would not be sufficient for him to retain an expert who would rebut the Defendants' expert testimony. Consequently, the Court finds this factor weighs against finding an abuse of discretion.

¶ 33 Third, the Court finds that any further continuance would have greatly inconvenienced the Court and the opposing party. The trial court judge was a *pro tempore* judge, flown to Saipan from Hawaii, due to the disqualification of the Saipan trial court judges due to potential conflicts. Further continuances would have likely caused a significant inconvenience to the *pro tempore* judge whose primary obligation would be to his docket in Hawaii. Considered in light of Manglona's request for a delay of trial on the day it was scheduled to start, it is not an abuse of discretion for the trial court to have denied the request. In addition to the trial court's travel, the Defendants' expert also flew in from Hawaii; therefore, a request to continue on the day of trial was unreasonable. For these reasons, the Court finds that a continuance would have greatly inconvenienced the court and the parties.

¶ 34 Considering the fourth and final factor, any prejudice to the movant from the court's denial of a continuance must be material and caused by no fault of his own. *Commonwealth v. Xiao*, 2013 MP 12 ¶¶ 67-68. "Where a party's own lack of diligence causes the prejudice of which the party complains, the denial is not an abuse of discretion." *Hwang Jae Corp. v. Marianas Trading and Development Center*, 4 NMI 142, 148. The Court finds that Manglona's lack of diligence in preparing for trial directly occasioned his inability to call a handwriting expert in time for trial.

¶ 35 For these reasons, the Court finds that the trial court's denial of a continuance was justified under the circumstances and any harm resulting to Manglona was a direct result of his own actions.[9]

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[9] Even though Manglona was unable to call an expert witness to rebut the Hayes Report, he did not suffer any prejudice. The validity of signatures can be established by testimony of non-expert witnesses who are familiar with the handwriting outside the context of litigation. *Commonwealth v. Camacho*, 2009 MP 1 ¶ 28. The trial court simply did not find Manglona's witnesses credible. Findings at 1-26. Moreover, Manglona cross-examined the Defendants' handwriting expert at trial, offered his own witnesses to testify to the veracity of the signature, and had the benefit of the presumption of notary validity -- all of which the trial court considered and clearly rejected.

C. The Appellant waived any statute of limitations argument by failing to sufficiently raise the issue before the trial court.

¶ 36 Finding that the 1985 Deed was a forgery and void *ab initio*, the trial court ruled that no legal transaction took place to which any statute of limitations could apply. Findings at 22. Manglona argues that the trial court erred in so finding and asserts that the statute of limitations barred the Defendants' claims in fraud. *See* 7 CMC § 2503(d). The Defendants ask this Court to affirm the trial court's ruling on the basis that Manglona waived any statute of limitations argument by failing to sufficiently raise the issue before the trial court. We agree that Manglona waived this argument on appeal.[10]

¶ 37 The trial court ruled summarily in its Findings of Fact and Conclusions of Law that "the statute of limitations does not apply in this matter since the underlying transaction is deemed to have legally not occurred." Findings at 22. This decision is based upon the trial court declaring the 1985 Deed void *ab initio*. Apart from this conclusion of law, the trial court made no factual finding with regard to when the statute of limitations was to have commenced, or when it would have expired, if the court would have applied any statute of limitations. Moreover, the trial court made no finding as to what statute of limitations applies, i.e. claims arising in fraud or, as the Defendants argue in the alternative, for the recovery of land, if it would have found one applicable.[11]

¶ 38 Although there are vague references to "other issues brought by the Plaintiff before the Court,"[12] the record before us does not clearly indicate whether the statute of limitations argument was raised by the Plaintiff in pleadings filed in the trial court, or by the court *sua sponte.* The record also does not contain the parties' proposed findings of fact and conclusions of law nor the pleadings relating to the Plaintiff's Motion for Reconsideration.[13] As such, the record before us is barren of any evidence or legal arguments which may have been advanced by Manglona or considered by the trial court with respect to the

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[10] Alternatively, the Defendants maintain that the trial court correctly found that a forged deed is void *ab initio* and, therefore, cannot be afforded legal rights or protections of a statute of limitations. Additionally, should this Court address the application of the statute of limitations for fraud, the Defendants argue that the gravamen of their' claim is an action for recovery of land and thus, the Court should apply the twenty-year (20) statute of limitations for land claims. *See* 7 CMC § 2502(a)(2). Because the Court finds that the Plaintiff waived the statute of limitations arguments by failing to sufficiently raise them below, we need not address the alternative bases advanced by the Defendants.

[11] Manglona argues that the applicable statute of limitations is two (2) years under a fraud claim while the Defendants contend that, if any statute of limitations applies, it is the twenty-year (20) period for actions for recovery of land.

[12] *See* Findings at 5.

[13] The record only contains the June 24 Order.

trial court's conclusion of law that the Defendants' claims are not barred by any statute of limitations.[14] For this reason, we consider challenges to the trial court's ruling on the statute of limitations to be raised for the first time on appeal.

¶ 39 As a preliminary matter, issues not raised at trial are generally not considered for the first time on appeal. *In re Estate of Teregeyo*, 5 NMI 90, *6 (1997) (citing *Santos v. Matsunaga*, 3 NMI 221, 231 (1992); *see Ishimatsu v. Royal Crown Ins. Corp.*, 2010 MP 8 ¶ 11 ("If an oversight occurred and counsel failed to assert a potentially valid defense at trial, an appeal to [the NMI Supreme Court] is not the appropriate remedy."); *see also Sablan v. Elameto*, 2013 MP 7 ¶ 29 ("The failure to assert a factual issue below results in a waiver of the issue on appeal.") (citing *In re Estate of Deleon Castro*, 4 NMI 102, 106 (1994)). Further, arguments that lack citation to relevant authority or meaningful legal analysis tying facts to law are insufficiently developed for review. *Mu v. Oh*, 2017 MP 4 ¶ 8 (citing *Commonwealth v. Guiao*, 2016 MP 15 ¶ 13); *see also Matsunaga v. Cushnie*, 2012 MP 18 ¶ 15 (declining to address insufficiently developed argument where the appellant failed to analyze the laws and relevant facts).

¶ 40 There are three exceptions to the general rule precluding appellate review of issues raised for the first time on appeal:

> (1) a new theory or issue arises because of a change in the law while the appeal was pending; (2) the issue is only one of the law not relying on any factual record; or (3) plain error occurred and an injustice might otherwise result if the appellate court does not consider the issue.
> *Ishimatsu*, 2010 MP 8 ¶ 6 (citing *Demapan v. Bank of Guam*, 2006 MP 16 ¶ 9).

These exceptions are exceptionally narrow. *Reyes v. Reyes*, 2004 MP 1 ¶ 87 (citing *Bolalin v. Guam Publications, Inc.*, 4 NMI 176, 181 (1994)). No new change in the law having been proffered as the basis for appeal, we consider whether this appeal is limited to considering the law (not relying on any factual record), or whether plain error occurred warranting consideration of this matter for the first time on appeal.

¶ 41 The Court takes judicial notice of the procedural record, which is before us. However, Manglona fails to establish that we should consider the issue before us only as a matter of law, without relying on any factual record. We have determined, *supra,* that in reaching its Findings of Fact and Conclusions of Law,

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[14] The trial court's June 24 Order suggests that Manglona's "other arguments" should have been made during the trial or "are just reiterations of arguments already made or suggested at the trial through testimony." June 24 Order at 6. However, it is not clear whether Manglona's Motion to Reconsider included any separate argument with respect to the statute of limitations.

the trial court made no factual finding with regard to when the statute of limitations was to have commenced, or when it would have expired, if the trial court would have applied any statute of limitations, nor did the trial court make any finding as to what statute of limitations applies. As such, we would be required to review the record below and determine, *inter alia,* when the Defendants' claims accrued, whether equitable tolling occurred, the factual basis to support a gravamen of fraud or recovery of property, what established facts constitute an event that would trigger a statute of limitations, and make other findings of fact. We refuse to do so. Thus, the second exception under *Ishimatsu* does not apply here.

¶ 42 We also find no plain error to have been committed by the trial court. Plain error has been found when the parties to a case fundamentally misconceived the law, *Santos v. Public School System*, 2002 MP 12 ¶ 13, or when a judge has personal knowledge of facts and should have recused himself. *Commonwealth v. Kaipat*, 1996 MP 20 ¶¶ 8-9. In contrast, plain error was not found when a demonstrative used in the closing of a civil trial was reasonably supported by evidence admitted in trial. *Mu*, 2017 MP 4 ¶ 17.

¶ 43 Manglona offers no legal support for this Court to find plain error. Moreover, nothing in the record before us suggests that the trial court committed plain error or that its decision was not well-grounded in law. Finally, Manglona fails to convince this Court, by the arguments set forth in its brief and during the oral argument before us, that the trial court's Findings of Fact and Conclusions of Law should be reversed on appeal under the third factor of *Ishimatsu*.

V. CONCLUSION

¶ 44 Based on the foregoing, we hereby AFFIRM the Superior Court's Order After Pretrial Conference denying a continuance in order to retain an expert witness and its Findings of Fact and Conclusions of Law, Order Granting In Part and Denying In Part Plaintiff's Motion to Reconsider, and Judgment ruling that the Defendants' claims are not barred by the statute of limitations and the 1985 Deed is a forgery and void *ab initio*.

SO ORDERED this 15th day of February, 2021.

/s/
MARIA T. CENZON
Justice Pro Tempore

/s/
ELYZE M. IRIARTE
Justice Pro Tempore

/s/
BENJAMIN C. SISON, JR.
Justice Pro Tempore

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