

CARMEN GUILIS MUNA and ISABEL GUILIS NELSON,
Plaintiffs-Appellants

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, GOVERN-
MENT OF THE NORTHERN MARIANA ISLANDS,
MAGDALENA REYES BORJA,

and

THE HEIRS OF PEDRO AKIYAMA, DECEASED,
REPRESENTED BY MARIA R. AKIYAMA, LAND TRUSTEE,
Defendants-Appellees

Civil Appeal No. 194

Appellate Division of the High Court

Northern Mariana Islands

May 20, 1977

Dispute over ownership of land. The Appellate Division of the High Court, Burnett, Chief Justice, vacated order dismissing complaint and remanded for trial on the merits.

1. Civil Procedure—Motion To Dismiss—Tests

On a motion to dismiss, the court is limited to the matters appearing on the face of the complaint.

2. Limitation of Actions—Recovery of Land—Particular Cases

Where plaintiffs claimed they had acquired title to certain land in 1939, and government asserted that in 1954 it had acquired the land through an executed and recorded land exchange agreement, 20 year statute of limitations had not run against plaintiffs, who did not file suit until 1976, for there was no showing that plaintiffs ever knew about the recording and the record showed that it was not until 1975 that there was any activity, possession or other acts which would have put plaintiffs on notice that anyone else claimed the land.

BURNETT, *Chief Justice*, BROWN, *Associate Justice* and
HEFNER, *Associate Justice*

PER CURIAM

Appellants filed a complaint alleging in substance, that they acquired title to the land in dispute in 1939. In 1975

they first discovered that the appellee Government of the Trust Territory claimed the property. It appears that in 1954 one Maria R. Akiyama executed a land exchange agreement with the Government and this document was recorded.

Appellants pled that Akiyama or her predecessor had no title or interest in the property.

Although various motions to dismiss were filed by counsel for the Akiyama family and the Government of the Northern Marianas (the purported recipient of the land from the Government of the Trust Territory of the Pacific Islands pursuant to Secretary of Interior Order No. 2969) no briefs have been filed by them and only counsel for the Trust Territory Government argued the matter pursuant to the order of this Court.

The answer of the Trust Territory Government and the motion to dismiss raises the basic issue brought before us for appellate review.

It is asserted that since the Government acquired title and recorded its interest in 1954, the statute of limitations of twenty years (6 TTC § 302) has run since Appellants did not file their suit until 1976, over twenty-two years later.

The trial court granted the motion to dismiss on the ground that Appellants' claim was barred by 6 TTC § 302.

We reverse and remand for trial on the merits.

[1] As accurately pointed out by the trial court on a motion to dismiss, the Court is limited to the matters appearing on the face of the complaint. *Blair v. Delta Airlines, Inc.*, 344 F.Supp. 360 (Fla. 1972).

However, a review of the pleadings in this matter indicates only the recording of the 1954 land exchange agreement upon which to base the appellee's claim. There is no showing that the appellants ever knew about the

recording and that further there is nothing in the record before us to indicate that there were any activities, possession or other acts which would have put the appellants on notice that anyone else claimed the land until 1975.

[2] In the absence of any such allegations in the record, it must be concluded for the purpose of ruling on the motion to dismiss that the appellants owned the land since 1939 and that the recording of the documents in 1954, without anything else, did not start the statute of limitations running until the appellants were put on notice. The statute of limitations, in such a case, cannot be construed in any other manner. *Grayson v. Harris*, 279 U.S. 300, 49 S.Ct. 306, 73 L.Ed. 700 (1929).

The Order dismissing Appellants' complaint is hereby vacated and set aside and this matter is remanded to the trial court for a trial on the merits.