

SANTOS v. TRUST TERRITORY

**LUIS P. SANTOS, and all other heirs to the Estate of
Antonio Acosta De Los Santos, deceased, Plaintiffs-Appellants**

v.

**TRUST TERRITORY OF THE PACIFIC ISLANDS and EDWARD
E. JOHNSTON, individually and in his capacity as High
Commissioner of the Trust Territory of the Pacific
Islands, Defendants-Appellees**

Civil Appeal No. 218

Appellate Division of the High Court

Mariana Islands District

September 5, 1978

Appeal from summary judgment granted defendants. The Appellate Division of the High Court, Gianotti, Associate Justice, held summary judgment was correctly granted on ground plaintiffs' action was 22 years beyond the time for appeal from prior decision plaintiffs were attacking.

Administrative Law—Land Title Determination—Appeal

Where Land Management Regulations provided for one year for interested persons to appeal determination of District Land Title Officer, action 23 years later, attacking decision for government and against plaintiffs' ancestor and seeking damages for the value of the land, or the land itself, was barred; and allegation that action was late because the alleged error of the District Land Title Officer could not be proved was not sufficient to allow waiver of the one year period for appeal.

Counsel for Appellants: JOSE S. DELA CRUZ, Micronesian
Legal Services Corporation
Counsel for Appellees: JOHN S. TARKONG, Assistant
Attorney General

Before HEFNER, Associate Justice, NAKAMURA, Associate Justice, and GIANOTTI, Associate Justice

GIANOTTI, Associate Justice

This is an appeal from a Summary Judgment granted by the Trial Division of the High Court in favor of the appellees.

Prior to 1926, one Antonio Santos, now deceased, was the owner of certain real property described as "Lot 365, located in East District, Saipan, Mariana Islands."

In February, 1926, Santos leased this land to N.K.K., a Japanese entity. At the close of World War II, Santos filed a claim of ownership with the Land and Claims Office in Saipan on June 15, 1951. After proper hearings, the Land Title Officer of Saipan made a determination of ownership. Nothing further was done by Santos, who subsequently died in March of 1956. An action entitled "Inverse Condemnation" was filed August 7, 1974, by the heirs of the Estate of Santos to recover damages for the value of the land, or the land itself. The Trial Court granted Summary Judgment in favor of the defendants/appellees, determining that the statute of limitations had run, thereby barring appellants' remedy to sue. Three issues were raised by the appellants. First, the statute of limitations of one year as provided by the Land Management Regulations; two, the twenty-year statute of limitations regarding recovery of an interest in land; and three, the trustee relationship existing in the Trust Territory.

Section 14 of 1951 Land Management Regulation No. 1 provides "Any person who has or claims an interest in the lands concerned may appeal from a District Land Title Of-

ficer's determination of ownership to the Trial Division of the High Court at any time *within one year* from the date the determination is filed in the Office of the Clerk of Courts" (Emphasis added.)

Applying this rule to the instant case, the determination of ownership was made on June 19, 1951, and no appeal was ever filed from that determination; and the present action was not filed until 1974.

The Trial Court in granting a Summary Judgment found:

Plaintiff admits Antonio Santos filed a claim and that the determination was adverse to him and in favor of the government. No appeal was taken from the determination within the one year as provided in Land Management Regulation No. 1 and is therefore too late to be considered on the merits.

We concur. Appellants acknowledged they were aware of the District Land Title Officer's determination when they stated:

The plaintiffs, though they felt that the Land Title Officer committed a fundamental error at the time the determination was issued See Appellants' Brief, Page 7.

The proper method to contest the action of the District Land Title Officer in determining ownership of the real property in question was by an appeal. No appeal was taken. The appellants contend unusual circumstances arose which should relieve appellants of timely filing.

The right of appeal is one granted by the Code and not a matter of inherent right or requirement of substantial justice. Filing of notice of appeal within the time limited by the Code provisions is essential to the jurisdiction of the court upon appeal in the absence of some most unusual circumstances. *Aguon v. Rogoman*, 2 T.T.R. 258-260 (Tr. Div. 1961).

The general principle that filing a notice of appeal within the time specified by any law providing for such appeal is ordinarily essential for jurisdiction to hear the appeal, is well established and recognized by this court. *Ngodrii v. Trust Territory*, 2 T.T.R.

142-145 (Tr. Div. 1960). See also *Milne v. Tomasi*, 4 T.T.R. 488 (App. Div. 1969).

The appellants further contend the appeal was not filed because the error of the District Land Title Officer could not be proved. These circumstances cannot be determined to be sufficiently unusual to waive the prompt filing of the appeal.

See *San Nicolas v. San Nicolas*, 6 T.T.R. 568.

The plaintiffs alleged:

Though they felt that the Land Title Officer committed a fundamental error at the time the determination was issued, they could not then prove otherwise until after they were able to obtain a translation of such lease agreement. Plaintiffs' Brief, Page 7.

However,

Newly discovered evidence is not a good ground for either a first or second appeal. *You v. Gaameu*, 2 T.T.R. 264-267 (Tr. Div. 1961).

The appellants failed to file an appeal within one year from the determination of the District Land Title Officer. This matter is jurisdictional, and therefore appellants are barred from this action by their failure to appeal. The Trial Court acted correctly in granting a Summary Judgment, and we affirm the Trial Court's action.

It is not necessary to discuss the twenty-year statute of limitations or other matters raised, as these matters apply only if the Court's ruling was otherwise.