

CHUUK STATE SUPREME COURT APPELLATE DIVISION

In the Matter of the November 19, 1991 Court )  
Judgment in Chuuk State Civil Action CSSC-CA )  
No. 123-90 )  
\_\_\_\_\_ )

CIVIL APPEAL NO. 02-2020

CHUUK LAND COMMISSION, on behalf of Heirs of )  
Akenes, Heirs of Ekros, Heirs of Benjamin and Fred, )  
and Heirs of Toran (adjacent landowners), )

Petitioner, )

vs. )

CHUUK STATE SUPREME COURT TRIAL )  
DIVISION, )

Respondent, )

TOIO ESA, LUKE, and MEISY and Immediate )  
Family, )

Respondents-Real Parties in Interest. )  
\_\_\_\_\_ )

OPINION AND ORDER DENYING PETITION FOR A WRIT

Argued: November 17, 2020

Decided: December 2, 2020

BEFORE:

Hon. Jayson Robert, Associate Justice, Presiding

Hon. Larry Wentworth, Temporary Justice\*

Hon. Daniel Rescue, Jr., Temporary Justice\*\*

\*Associate Justice, FSM Supreme Court

\*\*Attorney at Law, Weno, Chuuk

## APPEARANCES:

For the Petitioners: Sabino S. Asor, Esq.  
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For the Respondent: Lukas Padegimas, Esq.  
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## HEADNOTES

Mandamus and Prohibition – Nature and Scope

The requirements for the issuance of an extraordinary writ of prohibition are: 1) that a court or an officer is about to exercise judicial or quasi-judicial power; 2) that the exercise of such power is unauthorized or the inferior tribunal is about to act without or in excess of jurisdiction; and 3) this may or will result in damage or injury for which there is no plain, speedy, or adequate legal remedy. Each of these three elements must be satisfied for a writ of prohibition to issue. A writ of prohibition is a preventive remedy. Its purpose is to limit a lower tribunal to its proper jurisdiction. In re Judgment in Civil Action No. 123-90, 23 FSM R. 96, 99 (Chk. S. Ct. App. 2020).

Mandamus and Prohibition – When May Issue

When neither the trial court is about to exercise its judicial power because no motions are pending and the trial court judge passed away over two decades ago, and the case has not been assigned to any other judge nor the inferior tribunal of the Land Commission is about to exercise its quasi-judicial power because it has joined with others as the petitioner for a writ of prohibition; when neither of those two tribunals can be about to act without or in excess of its jurisdiction because neither is about to act; and when the legal remedy, if one is needed, is to remain mindful of the nature and extent of the trial court's judgment, none of the elements for a writ of prohibition's issuance are met. In re Judgment in Civil Action No. 123-90, 23 FSM R. 96, 99 (Chk. S. Ct. App. 2020).

Judgments; Property

Generally a trial court can only hold that, as between the parties to the case, who has the better claim to ownership, but that is all the trial court can decide regarding ownership; its ruling cannot apply to any claims to ownership by non-parties, or to ownership of other land. In re Judgment in Civil Action No. 123-90, 23 FSM R. 96, 99 (Chk. S. Ct. App. 2020).

Judgments – Final Judgment

Final judgments, as a rule, generally bind only the parties to the case and all those in privity with them. In re Judgment in Civil Action No. 123-90, 23 FSM R. 96, 99 (Chk. S. Ct. App. 2020).

Judgments; Property

When a dispute between two parties was over a parcel that one of the parties occupied, the trial court judgment can only determine the ownership of the land in question in that case between the parties in that case, and whether one of the parties owned any other land in the area is a question that was beyond the trial court's jurisdiction or purview. In re Judgment in Civil Action No. 123-90, 23 FSM R. 96, 99-100 (Chk. S.

Ct. App. 2020).

Property; Property – Land Commission

If a lot's boundaries were finally determined by the Land Commission before the matter of its ownership was appealed to the trial court and determined there, those are the lot's current boundaries, but, if those boundaries were still in dispute when the lot's title was appealed, the Land Commission to use its usual and normal procedures to now resolve any remaining boundary disputes. In re Judgment in Civil Action No. 123-90, 23 FSM R. 96, 100 (Chk. S. Ct. App. 2020).

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COURT'S OPINION

PER CURIAM:

On June 16, 2020, the Chuuk Land Commission filed this petition for a writ of mandamus and for a writ of prohibition on behalf of various landowners (or their heirs) whose lands were adjacent to certain land in Nukuno, on Tonoas, that was the subject of the trial court's November 19, 1991 judgment in Civil Action No. 123-90. They seek a writ prohibiting the enforcement of that judgment against them. We have considered the petition carefully and listened to oral argument and we conclude that the petition must be denied. Our reasons follow.

I. BACKGROUND

A. *Civil Action No. 123-90 Judgment*

Before 1990, a person named Luke and his immediate family occupied, and claimed to own, a portion of a land called Faisawan in Nukuno, on Tonoas. In 1990, a land registration team determined that Luke owned the land he claimed. Two land commissioners signed off on that determination (a third did not), and Toio Esa appealed that determination to the Chuuk State Supreme Court trial division. The trial court, Justice Wanis Simina presiding, conducted a trial and determined, in a judgment dated November 19, 1991, that Toio Esa and his sister Kireko owned the land in question (described elsewhere as Lot B-60266) and that Luke did not, and ordered Luke to vacate the land within 120 days. Mefian me Pungun Kapung (CSSC-CA No. 123-90 Nov. 19, 1991). This decision was later enforced by an October 16, 1992 Order of Ejectment from Land. There were no further trial court proceedings after that.

B. *Recent Occurrences*

Sometime in early 2020, Land Commission personnel went to retrace the Fansewan (presumed to be the same as Faisawan) boundaries, ostensibly using the November 19, 1991 Civil Action No. 123-90 judgment as a guide. Many of the nearby landowners complained that the Land Commission team was including their land within the boundaries of the Fansewan land they was being measured out as Toio Esa's land.

They, and the Chuuk Attorney General acting on their behalf, consider the November 19, 1991 Civil Action No. 123-90 judgment language to be confusing or ambiguous because it seems to imply, or conclude, that Toio Esa was declared the owner of all of the Fansewan land. On June 16, 2020, the Attorney General, acting on behalf of the "adjacent landowners" and their heirs, filed this petition, seeking a writ of mandamus or prohibition, barring the enforcement of the Civil Action No. 123-90 judgment against the "adjacent landowners."

The petitioners contend that they have no other speedy adequate or legal remedy because too much

time has elapsed for them to seek relief from the Civil Action No. 123-90 judgment under Rule 60(b). They ask us to "clarify" the Civil Action No. 123-90 judgment and protect the "adjacent landowners" separate parcels from being included in the land owned by Toio Esa.

## II. WRIT'S REQUIREMENTS

The requirements for the issuance of an extraordinary writ of prohibition are (1) that a court or an officer is about to exercise judicial or quasi-judicial power; (2) that the exercise of such power is unauthorized or the inferior tribunal is about to act without or in excess of jurisdiction; and (3) this may or will result in damage or injury for which there is no plain, speedy, or adequate legal remedy. Shirai v. Walliby, 23 FSM R. 69, 71 (Chk. S. Ct. App. 2020); Albert v. O'Sonis, 15 FSM R. 226, 231 (Chk. S. Ct. App. 2007); Nikichiw v. Petewon, 15 FSM R. 33, 37 (Chk. S. Ct. App. 2007); Ruben v. Petewon, 14 FSM R. 177, 182 (Chk. S. Ct. App. 2006); Election Comm'r v. Petewon, 6 FSM R. 491, 497 (Chk. S. Ct. App. 1994). Each of these three elements must be satisfied for a writ of prohibition to issue. Etscheit v. Amaraich, 14 FSM R. 597, 600 (App. 2007). A writ of prohibition is a preventive remedy. Its purpose is to limit a lower tribunal to its proper jurisdiction. Shirai, 23 FSM R. at 71.

## III. ANALYSIS

### A. Denial of Petition

We cannot issue the writ(s) requested. None of the elements for the writ's issuance are met. First, the trial court is not about to exercise its judicial power. No motions are pending in Civil Action No. 123-90. Justice Simina passed away over two decades ago, and the case has not been assigned to any other justice. Thus, the trial court is not "about to act."

It does appear that the "adjacent landowners" were alarmed that the inferior tribunal of the Land Commission was about to exercise its quasi-judicial power and, in exercising that power, deprive them of some of their own land. But the Land Commission has now joined the "adjacent landowners" (or their heirs) as the petitioner for a writ of prohibition and therefore the Land Commission is not about to exercise its quasi-judicial power to their detriment either.

Second, since neither the trial court nor the Land Commission is about to act, neither of those two tribunals can be about to act without or in excess of its jurisdiction. And third, the legal remedy, if one is needed, is to remain mindful of the nature and extent of the trial court judgment in Civil Action No. 123-90.

### B. Nature of a Judgment

Generally a trial court can only hold that, as between the parties to the case, who has the better claim to ownership, but that is all the trial court can decide regarding ownership; its ruling cannot apply to any claims to ownership by non-parties, or to ownership of other land. See Ruben v. Hartman, 15 FSM R. 100, 111 (Chk. S. Ct. App. 2007). Final judgments, as a rule, generally bind only the parties to the case and all those in privity with them. Nakamura v. Chuuk, 15 FSM R. 146, 149 (Chk. S. Ct. App. 2007); Phillip v. Moses, 10 FSM R. 540, 546 (Chk. S. Ct. App. 2002).

The dispute between Luke and Toio Esa was over a part of Faisawan/Fansewan that Luke occupied, described as Lot B-60266. The land registration team decided in Luke's favor. Toio Esa appealed to the trial court, which decided in Esa's favor. It is unclear from the record before us, whether the land registration team (and the Land Commission) had determined the boundaries of Lot B-60266 before it decided that Luke owned it. If it did, then that is the extent of the land whose title was finally determined in the Civil Action No. 123-90 judgment. That is because the Civil Action No. 123-90 judgment can only determine the ownership

of the land in question in that case (Lot B-60266) between the parties in that case. Whether Toio Esa owned any other land in the Faisawan/Fansewan area of Nukuno, Tonoas is a question that was beyond the trial court's jurisdiction or purview.

We would therefore expect the Land Commission to proceed accordingly. If (as seems likely because the assignment of Lot numbers often involves a survey of lot boundaries) Lot B-60266's boundaries were finally determined before the matter of its ownership was appealed to the trial court, those are its current boundaries. If, however, those boundaries were still in dispute when Toio Esa appealed Lot B-60266's title, we would expect the Land Commission to use its usual and normal procedures to now resolve any remaining Lot B-60266 boundary disputes.

#### IV. CONCLUSION

Accordingly, the petition is hereby dismissed.

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