

**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)

Counsel for Appellee:

JESUS BORJA, ESQ., Micronesian
Legal Services Corporation,
P.O. Box 826, Saipan, CM
96950

Counsel for Appellant:

Office of the Attorney General,
Trust Territory of the Pa-
cific Islands, Capitol Hill,
Saipan, CM 96950

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

H.C.T.T. App. Div. TRUST TERRITORY REPORTS Jan. 27, 1983

**and issues after delving through a myriad of inapplicable
historical fact.**