

FRANCISCO M. DIAZ, et al., Plaintiffs-Appellees

v.

RAMON LG. DIAZ, Defendant-Appellant

Civil Appeal No. 390

Appellate Division of the High Court

Northern Mariana Islands District

January 18, 1984

Appeal of judgment for plaintiff in land dispute, determining that *partida* had not occurred. The Appellate Division of the High Court, Gianotti, Associate Justice, held that there was not sufficient evidence to show a *partida*, and also that issue of collateral estoppel could not be raised for the first time on appeal, and therefore trial court judgment was affirmed.

**1. Chamorro Custom—"Partida"**

In order for a *partida* to take place, certain requirements must be complied with, as listed in *Blas v. Blas*, 3 T.T.R. 99 (1966) and *Muna v. Muna*, 7 T.T.R. 632, 634 (1978).

**2. Estoppel—Collateral Estoppel**

Collateral estoppel is an affirmative defense which must be raised by an answering party at an earlier stage than appeal. (Rules of Civil Proc., Rule 8)

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Before MUNSON, *Chief Justice*, GIANOTTI, *Associate Justice*, and MIYAMOTO, *Associate Justice*

GIANOTTI, *Associate Justice*

This is a second appeal of this case. In the original action, the judgment of the trial court was reversed and "remanded for further hearing on the issue of *partida* consistent with this opinion." Appellant now appeals following a trial on remand on the basic question of whether a *par-*

*tida* had taken place and on the question of whether the result in Civil Action 80-137<sup>1</sup> collaterally estops the plaintiffs in this case from contending otherwise.

Prior to World War II, one Maria A. Diaz owned certain real property on the island of Saipan. The primary question before the court at this time is whether this land was the subject of a *partida*, prior to or during World War II.

[1] In order for a *partida* to take place, certain requirements must be complied with. A very detailed explanation of these requirements is contained in the Trust Territory case of *Blas v. Blas*, 3 T.T.R. 99 (1966), and was reiterated in *Muna v. Muna*, 7 T.T.R. 632, 634 (1978), wherein the trial judge in this case drafted the appellate opinion.

An examination of the record does not support appellant's argument that a *partida* did in fact take place. We do not find sufficient evidence to support the requirements of a *partida* as stated in *Blas*.

[2] Appellant also raised the question of collateral estoppel for the first time in this appeal. Collateral estoppel is an affirmative defense which must be raised by the answering party at an earlier stage than appeal. See Rule 8, Trust Territory Rules of Civil Procedure.

Therefore, the judgment of the trial court is AFFIRMED.

<sup>1</sup> *Ramona S. Pangelinan, et al. v. Ana B. Agulto, et al.*