

IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

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NGERULEKONG LINEAGE, rep. by BALANG ULANG
WONG,
Appellant,
v.

SUPREME COURT
OF THE
REPUBLIC OF PALAU

MEISAI CHIN, MEIKOK CHIN, MEILAN CHIN, MEIANG
CHIN, KURT REHUHER, LESTER REHUHER, EVENCE
SENGBEAU, IDESIAR LESTER NGIRAMEKED, and ITPIK
JAMES NGIRACHEDENG,
Appellees.

Cite as: 2025 Palau 6
Civil Appeal No. 24-010
Appeal from Civil Action No. 21-217

Decided: April 30, 2025

Counsel for Appellant	Siegfried Nakamura
Counsel for Appellees Meisai Chin, <i>et al.</i>	J. Uduch Sengebau Senior
Counsel for Appellees Idesiar Ngirameked, <i>et al.</i>	Johnson Toribiong

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice, presiding
FRED M. ISAACS, Associate Justice
KEVIN BENNARDO, Associate Justice

Appeal from the Trial Division, the Honorable Lourdes F. Materne, Associate Justice,
presiding.

OPINION

PER CURIAM:

[¶ 1] This appeal involves the proper procedure for resolving objections to a purported transfer of village land. Ngerulekong Lineage appeals the Trial

Division's determination that a successful collateral attack is required for the court to determine the validity of the land transfer.

[¶ 2] For the reasons set forth below, we **VACATE** the Trial Division's February 22, 2024 Decision and Judgment and **REMAND** for further proceedings.

BACKGROUND

[¶ 3] This appeal concerns Cadastral Lot Nos. 83 R 01, 83 R 02, 83 R 03, and 83 R 04 located in Ngerdelolk Village of Peleliu State, also known as *Ngebad* Island. On July 17, 2009, the Land Court issued a determination of ownership in which it determined that Beluu ra Ngerdelolk owned *Ngebad* in fee simple.

[¶ 4] On August 20, 2009, after the time for appeal of the determination of ownership had lapsed, the *rubaks* of Ngerdelolk issued a document titled *Choidel a Chutem*, which claims to transfer *Ngebad* from Beluu ra Ngerdelolk to Ngerulekong Lineage (hereinafter "2009 Deed"). The document states:

We, the Chiefs of Ngerdelolek of Peleliu, agree that the island of Ngebad Lot R 753, 754, 755, 756, and 757 on the Bureau of Lands and Survey Worksheet No. 2007 R 01 do not belong to the Village of Ngerdelolk. This island, Lot R 753, 754, 755, 756, and 757 is owned by the Lineage of Ngerulekong of the House of Ucheliou of Ngerdelolk Village. Therefore, we the Chiefs of Ngerdelolk will urge the Office of the Land Court to transfer the ownership of the island of Ngebad so that it won't belong to the Village of Ngerdelolek, and give it to the Lineage of Ngerulekong, the lineage that is the true owners of the island.¹

¹ The text included herein has been translated from the original Palauan.

The 2009 Deed was recorded on August 21, 2009. On June 12, 2012, the Land Court issued Certificates of Title for the *Ngebad* Lots in Beluu ra Ngerdelolk's name.²

[¶ 5] On October 2, 2019, pursuant to the 2009 Deed and Rule 24 of the Rules and Regulations of the Land Court, Ngerulekong Lineage petitioned the Land Court to issue new Certificates of Title for the *Ngebad* Lots. In its petition, the Lineage requested the Land Court to issue a public notice setting forth deadlines for filing of claims or objections to the purported transfer of land. The Land Court granted the petition and issued public notice of the same. Several individuals, including the Appellees, filed objections to the purported transfer. The Land Court subsequently informed Ngerulekong Lineage³ that it did not have jurisdiction to entertain the contested petition and directed it to pursue the matter in the Trial Division.

[¶ 6] On December 22, 2021, Ngerulekong Lineage filed suit in the Trial Division to quiet title to its ownership claim of *Ngebad*. The Appellees, claiming to be senior strong members of Uchelious Clan of the Beluu ra Ngerdelolk, argued that *Ngebad* cannot be transferred to the Lineage without the consent of the senior strong members of Uchelious Clan. Neither party

² We note that the Land Court is required to issue Certificates of Title pursuant to a determination of ownership “*as originally made* or as modified by the Appellate Division of the Supreme Court, as the case may be, not more than thirty (30) days after the later of (1) the completion of a final cadastral map of [the land] by the Bureau of Lands and Surveys, or (2) the expiration of the time for appeal from a determination of ownership by the Land Court without any notice of appeal having been filed or after the determination of an appeal.” L.C. Reg. 22 (emphasis added). Here, it appears that the final cadastral map of the *Ngebad* Lots was not completed until 2012, at which point the Land Court was required to issue Certificates of Title in Beluu ra Ngerdelolk's name, as originally determined.

³ We take judicial notice of the Land Court's written correspondence to Ngerulekong Lineage, which is printed on the Land Court's official letterhead and signed by the Land Court Registrar. *See Napoleon v. Children of Masang Marsil*, 17 ROP 28, 32 (2009) (an appellate court can take judicial notice of a fact “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned”).

challenged the Land Court's July 17, 2009 determination of ownership or the validity of the June 2012 Certificates of Title. The trial court concluded that Ngerulekong Lineage was required to collaterally attack the June 2012 Certificates of Title before the court could consider the validity of the 2009 Deed. Because Ngerulekong Lineage failed to do so, the trial court determined that the validity of the 2009 Deed was irrelevant. Nevertheless, it opined that the 2009 Deed was invalid. This appeal timely followed.

STANDARD OF REVIEW

[¶ 7] We review matters of law de novo, findings of fact for clear error, and exercises of discretion for abuse of that discretion. *Obechou Lineage v. Ngeruangel Lineage of Mochouang Clan*, 2024 Palau 2 ¶ 5.

DISCUSSION

[¶ 8] On appeal, Ngerulekong Lineage contends the Trial Division erred in concluding that (1) the June 2012 Certificates of Title superseded the 2009 Deed; (2) the Lineage was required to first collaterally attack the Certificates before the court could review the Deed; and (3) the Deed was not valid.

I. A Collateral Attack is Not Required to Resolve Objections to a Contested Petition to Transfer Land Ownership

[¶ 9] As an initial matter, we agree and acknowledge that the trial court correctly stated the law on collateral attack. When a party seeks to collaterally attack a certificate of title, it may do so only on the grounds that (1) the Land Court failed to comply with statutory or constitutional procedural requirements or (2) that it issued the determination of ownership or certificate of title based on fraud. *See Nakamura v. Isechal*, 10 ROP 134, 136 (2003). A failed attack, as the trial court correctly observed, ends the inquiry and the certificate of title stands. *See Estate of Sukrad v. Arbedul*, 2023 Palau 23 ¶ 13 (“We hold that once the Trial Division found no violation of due process nor any fraud, the inquiry should have ended there.”). In other words, unless the attack is successful, the attacking party is precluded from discussing or otherwise introducing any evidence relating to the merits of his ownership claim, such as the *Choidel a Chutem* in this case. *See Masang v. Estate of Tellei*, 2023 Palau 17 ¶ 15 (A collateral attack “has often been understood as a two-step process,

where the party asserting the violation must first prove it, then proceed to trial on the merits.”).

[¶ 10] Our agreement with the trial court’s restatement of the law, however, does not extend to its application of the collateral attack doctrine in this case. As the trial court noted, the Lineage did not dispute the Land Court’s July 17, 2009 determination of ownership or the June 2012 Certificates of Title. Rather than attacking either the decision or issuance of the certificates of title, the Lineage accepted that Beluu ra Ngerdelolk was determined to be the fee simple owner of *Ngebad*. Moreover, the Lineage not only agreed that Beluu ra Ngerdelolk owned *Ngebad*, but specifically relied on the 2009 determination and the June 2012 Certificates of Title in petitioning the Land Court to issue new certificates of title for *Ngebad* in the Lineage’s name. Indeed, but for the objections to the petition, the Land Court would have simply analyzed the validity of the 2009 Deed to determine whether new certificates should be issued. *See* Am. No. 1 to L.C. Reg. 24.⁴

[¶ 11] What’s more, the Trial Division’s jurisdiction over land cases is not limited to collateral attacks. In fact, it has routinely heard suits to quiet title based on a conveyance, including challenges to the validity of a deed. *See, e.g., Estate of Ngirailild v. Ngarchelong Public Lands Authority*, 20 ROP 235 (2013); *Rubasech v. Rechesengel*, 2020 Palau 12; *Andres v. Aimeliik State Pub. Lands Auth.*, 2020 Palau 18; *Estate of Rudimch v. Kayangel State Gov’t*, 9 ROP 275 (Tr. Div. 2001). In *Andres*, we explicitly declined to construe a quiet title action as a collateral attack. In rejecting the appellants’ attempt to characterize the underlying quiet title action as such, we opined: “The Land Court determined that the property belonged to Trei Clan, a conclusion that no party to the present proceeding challenges. However, as an owner of the land in fee

⁴ The Land Court may issue new Certificates of Title at the request of a transferee. Specifically, “[u]pon receiving a request for or notice of transfer, the Senior Land Court Judge must determine that the document of transfer is properly executed and properly describes the land before canceling the existing certificate and issuing a new certificate of title.” Am. No. 1 to L.C. Reg. 24(A). This procedure applies equally to requests to transfer land owned by a clan or lineage. *See id.* 24(B).

simple, Trei Clan was entitled to alienate the property in favor of a third party.” 2020 Palau 18 ¶ 12.

[¶ 12] Likewise, none of the parties dispute the Land Court’s determination here that *Ngebad* belonged to Beluu ra Ngerdelolk. Thus, as a fee simple owner, Beluu ra Ngerdelolk was entitled to transfer, devise, sell or otherwise dispose of *Ngebad* at such time and in such manner as it desired. *See* 39 PNC § 403. Accordingly, we find that the trial court misconstrued the Lineage’s quiet title action when it interpreted the Lineage’s claim as a collateral attack. Such mischaracterization constitutes reversible error.

II. Further Analysis of the 2009 Deed is Required

[¶ 13] Turning to the validity of the 2009 Deed, we find the trial court’s analysis insufficient for adequate appellate review. Trial courts have a duty to provide clear written records of their findings upon which we can perform meaningful appellate review. *Whipps v. Idesmang*, 2017 Palau 24 ¶ 37. While the court’s analysis “need not discuss all the evidence relied on to support its conclusion, the court’s decision must ‘reveal an understanding analysis of the evidence, a resolution of the material issues of fact that penetrate beneath the generality of ultimate conclusions, and an application of the law to those facts.’” *Eklbai Clan v. Imeong*, 13 ROP 102, 107 (2006) (quoting *Fritz v. Blailes*, 6 ROP Intrm. 152, 153 (1997)). “[W]here a lower court has not clearly set forth the basis for its decision, remand for further elaboration is appropriate.” *Ochedaruchei Clan v. Thomas*, 2020 Palau 11 ¶ 34. “Demonstrated inconsistencies in reasoning are a sufficient basis for a ‘firm conviction’ that the trial court erred. Such inconsistencies may arise when a trial court does not provide sufficient detail to allow for a meaningful appellate review.” *Kiuluul v. Rengiil*, 2022 Palau 3 ¶ 13 (internal citations omitted).

[¶ 14] At trial, the court struck as untimely certain of the Defendants’ arguments regarding the validity of the 2009 Deed. The court incorporated this ruling in its Judgment, stating, “Plaintiff’s January 30, 2023 motion is granted and Defendant’s arguments regarding the validity of the ‘*Choidel a Chutem*’ are stricken.” Nevertheless, the trial court found that the Deed was not valid. We find this conclusion problematic for two reasons. First, the court provided no analysis underlying its conclusion, such as whether the Deed satisfied the customary and legal requirements for deeds of transfer. *See Beouch v. Sasao*,


20 ROP 41, 48 (2013) (discussing customary requirements); *Airai State Pub. Lands Auth. v. Baules*, 2019 Palau 15 ¶ 11 (discussing legal requirements). Without further elaboration, we cannot adequately review the court's decision as to the Deed's invalidity.

[¶ 15] Second, the Lineage was entitled to rely on the court's rulings striking as untimely the Defendants' arguments regarding the Deed's validity. Yet the court *sua sponte* reversed that ruling when it concluded that the Deed was not valid. We have consistently recognized and upheld the right of parties to notice and an opportunity to be heard "before the court may, *sua sponte*, dismiss a case or amend its judgment." *Airai State Pub. Lands Auth. v. Aimeliik State Gov't*, 11 ROP 39, 42 (2003). Here, the trial court provided no notice to the Lineage and no reason to believe that it would reverse its earlier ruling on the Lineage's motion to strike arguments concerning the Deed's validity. In effect, the court's *sua sponte* reversal of its earlier ruling erroneously deprived the Lineage of notice and an opportunity to present evidence on the issue. Remand is thus appropriate to provide the parties notice and an opportunity to be heard before the court rules on the validity of the Deed.

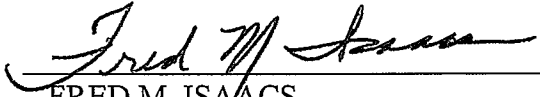
CONCLUSION

[¶ 16] For the reasons stated herein, we **VACATE** the Trial Division's February 22, 2024 Decision and Judgment and **REMAND** this matter for further proceedings consistent with this Opinion.


SO ORDERED, this 30th day of April 2025.



O. DAIS NGIRAI KELAU
Chief Justice, presiding



FRED M. ISAACS
Associate Justice



KEVIN BENNARDO
Associate Justice