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Yoma v. Pohnpei Court of Land Tenure
23 FSM R. 386 (App. 2021)

FSM SUPREME COURT APPELLATE DIVISION

ANSLEY YOMA,)	APPEAL CASE NO. P2-2018
)	(Pohnpei Appeal No. 8-17;
Appellant,)	PCA No. 146-17)
)	
vs.)	
)	
POHNPEI COURT OF LAND TENURE,)	
)	
Appellee.)	
_____)	

ORDER CORRECTING CAPTION; ORDER FOR STATUS CONFERENCE

Dennis K. Yamase
Chief Justice

Decided: August 20, 2021

APPEARANCES:

For the Appellant: Vincent Kallop, Esq.
Micronesia Legal Service Corporation
P.O. Box 129
Kolonias, Pohnpei FM 96941

For the Appellee: Monaliza Abello-Pangelinan, Esq.
Acting Attorney General
Pohnpei Attorney General's Office
P.O. Box 1555
Kolonias, Pohnpei FM 96941

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HEADNOTES

Appellate Review – Notice of Appeal; Appellate Review – Parties

The caption of an appeal case must be corrected to conform to the requirement of the Rules of Appellate Procedure to reflect the real party in interest's identity, and once that is determined, that person can then be substituted as the named-party appellee. Yoma v. Pohnpei Court of Land Tenure, 23 FSM R. 386, 387 (App. 2021).

Appellate Review – Parties

When, at no time, was the Pohnpei Supreme Court appellate division, from which the appeal is being taken, a named-party to the litigation and when the pleadings in the underlying case show the named-party defendant, who is apparently identified as the real party in interest, as the Pohnpei Court of Land Tenure, the Pohnpei Supreme Court appellate division is not a party to the litigation and should not be included in the case caption. Yoma v. Pohnpei Court of Land Tenure, 23 FSM R. 386, 387 (App. 2021).

Civil Procedure – Parties; Constitutional Law – Due Process – Procedural; Property

A party who challenges another's right to an interest in land ought to, as a matter of due process, name that other as a party defendant. Otherwise, that other party will be deprived of its interest without

notice and an opportunity to be heard. Yoma v. Pohnpei Court of Land Tenure, 23 FSM R. 386, 388 (App. 2021).

Appellate Review

The court may direct the parties' attorneys to appear before the court, or a justice thereof, for a prehearing conference to consider the simplification of the issues and such other matters as may aid in the proceeding's disposition, including addressing the identity of the proper, named-party appellee and the status of the underlying record. Yoma v. Pohnpei Court of Land Tenure, 23 FSM R. 386, 388 (App. 2021).

* * * *

COURT'S OPINION

DENNIS K. YAMASE, Chief Justice:

This matter comes before the Court on the Appellant's request for a status conference. FSM App. R. 33. To date, this motion is unopposed. For the reasons stated below, the Court hereby schedules a prehearing conference for August 30, 2021, at 2:00 o'clock p.m. FSM App. R. 33. In addition, and as discussed more fully below, the caption of this case must be corrected to conform to the requirement of the Court's Rules of Appellate Procedure. Setik v. Pacific Int'l, Inc., 17 FSM R. 304, 306 (Chk. 2010) (in any lawsuit that, in effect, seeks to change the registered ownership of the land that a certificate of title represents and deprive the certificate titleholder of the titleholder's property interest, due process would require that person be an indispensable party to the action). Once the identity of the real party in interest is determined, that person can then be substituted as the named-party Appellee in this case. This issue, as well as other issues identified in this Order will be addressed at the August 30, 2021 prehearing conference in this case.

To begin, the Court's Rules of Appellate Procedure provide a sample caption form for parties to use when pursuing an appeal before this Court:

IN THE SUPREME COURT OF THE
FEDERATED STATES OF MICRONESIA
APPELLATE DIVISION

JOHN DOE,)	APP. NO.
)	
Appellant,)	
)	
v.)	NOTICE OF APPEAL from
)	<u>Court</u> (Civil/Criminal)
JIM DOE,)	No. _____
)	
Appellee.)	
_____)	

FSM App. R. Form 1.

The caption used by the Appellant, however, does not conform to sample caption set forth above. Specifically, the Appellant has identified the Appellate Division of the Pohnpei Supreme Court as the named-party Appellee. In fact, the pleadings in the underlying case at issue here show that the named-party defendant who is apparently identified as the real party in interest is the: "Pohnpei Court of Land Tenure." At no time, however, was the Pohnpei State Court's Appellate Division, from which this appeal is being taken, a party to this litigation. Thus, that entity should not be included in the caption of this case. See Heirs

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of Preston v. Heirs of Alokoa, 21 FSM R. 572, 579 (App. 2018) (it is not proper to make the lower court a defendant when seeking judicial review of its actions in a higher court); Alik v. Heirs of Alik, 21 FSM R. 606, 620 (App. 2018) (when the plaintiffs do not seek money damages, but only seek undisturbed registered title to a parcel, the entity alleged to be negligent – the Kosrae Land Court – should not be a party to the action).

In addition, it appears that the named-party Appellee may not even be the State of Pohnpei, or its Court of Land Tenure. Instead, it appears that the underlying matter on appeal involves two (2) private parties who were vying for the same parcel of land. This appeal then arose after the Court of Land Tenure issued its determination of ownership and the subsequent certificate of title. The identity of the other individual who was apparently awarded the certificate of title for the land at issue here, however, is unclear from the record now before this Court. As this Court has explained, a party “who challenges another’s right to an interest in land . . . ought to, as a matter of due process, name that other as a party defendant. Otherwise, that other party will be deprived of its interest without notice and an opportunity to be heard.” Luen Thai Fishing Venture, Ltd., v. Pohnpei, 18 FSM R. 573, 575 (Pon. 2013).

Lastly, it is also unclear whether the record for the underlying appeal has been prepared and certified by the Pohnpei Supreme Court’s for the appeal before this Court. If that record is ready, then the parties may prepare and file their briefs.

In an effort to address these issues, including the identity of the proper named-party Appellee, and as the Appellant has requested, the Court hereby schedules a prehearing conference for August 30, 2021, at 2:00 o’clock p.m. Under Rule 33 of the Court’s Rules of Appellate Procedure, the Court may direct the attorneys for the parties to appear before the Court, or a justice thereof, for a prehearing conference to consider the simplification of the issues and such other matters as may aid in the disposition of the proceeding by the Court. The Court, or single-presiding justice, shall make an order which recites the actions taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of counsel. Such order when entered controls the subsequent course of the proceeding, unless modified to prevent manifest injustice. FSM App. R. 33. In this instance, the parties should be prepared at the prehearing conference to address the identity of the proper, named-party Appellee in this case, as well as the status of the underlying record that is apparently still being prepared by the Pohnpei State Court’s Appellate Division.

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