IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

KLAI CLAN	:	
	:	CIVIL APPEAL NO. 12-051
Appellant,	:	(LC/N 08-825)
	:	
v.	:	
	:	**OPINION**
AIRAI STATE PUBLIC LANDS AUTHORITY,	:	
	:	
Appellee.	:	
	:	

Decided: August 22, 2013

Counsel for Appellant: Moses Uludong
Counsel for Appellee: Mariano Carlos

BEFORE: KATHLEEN M. SALII, Associate Justice; LOURDES F. MATERNE. Associate Justice; and R. ASHBY PATE, Associate Justice.

Appeal from the Land Court, the Honorable RONALD RDECHOR, Associate Judge, presiding.

PER CURIAM:

This appeal arises from a Land Court decision awarding Appellee Airai State Public Lands Authority (ASPLA) ownership of a parcel of land identified as Lot 002-N06 on Cadastral Plat No. 002 N 00 (the Land). For the following reasons, we **AFFIRM** the decision of the Land Court.

BACKGROUND

On December 31, 1988, Ebilraklai Ngetwai Ngiraichereang, acting on behalf of Appellant Klai Clan, filed a "Claim[] for Public Lands (Pursuant to 35 PNC § 1104)" for the Land. In its claim, the Clan alleged that the Japanese administration took and used the Land without paying compensation. The claim asserted an interest of "[f]ee simple absolute ownership in Klai Clan," and alleged that the Land "has been Clan property as far back as can be remembered." Elsewhere, the Clan alleged "[t]his property has always been Klai Clan property." Approximately ten years later, on April 27, 1999, Tungelel Lineage filed a "Claim of Land Ownership" for the Land.

On August 20, 2012, the Land Court convened a hearing to resolve the outstanding claims. At the commencement of the hearing, the Land Court noted that ASPLA had been served with notice of the hearing, but that it failed to appear. Following this observation, Klai Clan presented witness testimony purporting to show that it held title to the Land and that title never passed to the Japanese administration.

At the beginning of the second day of trial, the Land Court admonished Klai Clan's counsel: "Before we begin . . . when I look at [your claim], it's claiming for the return of public lands. I don't know if you have changed . . . and now you're claiming that this is not public land . . ." Counsel for Klai Clan responded: "We are claiming for return of public land and as original owner. [B]ut our claim says original owner . . . . we never lost

ownership of the land . . . . [If] it turns out to be a public land then we're taking it through both." The Land Court then allowed Klai Clan to continue presenting its case.

Following two additional days of testimony, the Land Court issued its Decision. In its Decision, the Land Court wrote:

> During the hearing, the Court counseled Klai Clan that its claim was for return of public lands and admonished counsel to present evidence relevant to such a claim. Counsel for Klai Clan, however, ignored this advice and continued to make arguments consistent with a superior ownership claim. Klai Clan's refusal to make arguments consistent with its pleadings does not alter the pleadings it made. Consequently, this Court will address the claim as one of return of public lands.

(internal citation omitted).

The Land Court held that Klai Clan failed to meet its burden under the return of public lands standard and, having also rejected Tungelel Lineage's claim, awarded ownership of the Land to ASPLA.

Klai Clan appealed.

STANDARD OF REVIEW

We review the Land Court's legal conclusions de novo and its factual findings for clear error. *Kotaro v. Ngotel*, 16 ROP 120, 121–22 (2009).

DISCUSSION

As we have explained many times before, a Land Court claimant may raise one of two types of claims: (1) a superior title claim, in which the claimant asserts he holds the strongest title to the land claimed; and (2) a return of public lands claim, in which the

claimant concedes that a public entity holds superior title to the land, but argues that the title was acquired wrongly from the claimant or his predecessors. *See Koror State Pub. Lands Auth., v. Wong*, Civ. App. 12-006, slip op. at 4–5 (Oct. 31, 2012) (describing two types of claims). Although return and superior title claims may be raised in the alternative, *Kerradel v. Ngaraard State Pub. Lands Auth.*, 9 ROP 185, 185–86 (2002), a claimant desiring to pursue both types of claims must present and preserve the separate claims individually. *See Idid Clan v. Koror State Public Lands Auth.*, 9 ROP 12, 14 n.3 (2001) (alternative claims must be "presented and preserved as if they were presented by different persons."). If a claim has not been preserved properly, it may not be considered. L.C. Reg. 12 ("Any claim which is not timely filed shall be forfeited."); *Ngarameketii v. Koror State Pub. Lands Auth.*, 16 ROP 229, 231 (2009) (return of public lands claim may not be considered as superior title claim in order to avoid statutory deadline).

The Land Court's Regulations provide explicitly that "[a]ll claims to private lands must be filed with the Land Court no later than 60 days prior to the date set for hearing of the land claimed [and that t]he deadline for claims to public land was January 1, 1989." L.C. Reg. 11.

Here, the Land Court found, and Klai Clan does not dispute, that the only filed claim was for a return of public lands. On appeal, the Clan quotes Rule 15 of our Rules of Civil Procedure, which provides "[w]hen issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had

been raised by the pleadings." The Clan argues that, by trying the superior title claim with the parties' consent, the Land Court amended the Clan's return of public lands claim to include a superior title claim, and that, therefore, the Land Court's refusal to consider such claim was in error. Because we believe such amendment falls outside the Land Court's authority, Klai Clan's argument fails.

Importantly, the Rules of Civil Procedure do not govern proceedings in the Land Court. *Sadang v. Ongesii*, 10 ROP 100, 101–02 (2003). Rather, the Land Court's authority flows from the Land Claims Reorganization Act (35 PNC §§ 1301, et seq.), the Rules and Regulations promulgated pursuant to the LCRA, and from the Land Court's inherent powers. *See id.* (where power to reconsider decision is not set forth in Land Court's statute, "if the Land Court may afford a party relief from a determination of ownership, it must be through some inherent Land Court authority."). Thus, if the Land Court has the authority to transform an untimely superior title claim into a timely one simply by trying the claim with the parties' consent, such power must come from one of three sources—the LCRA, the Land Court's Rules and Regulations, or the Land Court's inherent powers. *Id.*

I. The Land Claims Reorganization Act and the Land Court's Rules and Regulations

The Land Claims Reorganization Act does not provide the authority for the Land court to transform an untimely land claim into a timely one simply by trying it with the parties' consent. It does, however, grant the Supreme Court authority to "promulgate

special procedural and evidentiary rules designed to allow claimants to represent themselves without the aid of legal counsel." 35 PNC § 1310(a).

Acting pursuant to that statutory direction, the Supreme Court established Rules of Procedure and Rules and Regulations for the Land Court. *See* L.C. Reg. 1–32; *see also* L.C. R. Proc. 1–20. Similar to the LCRA, neither the Rules of Procedure nor the Rules and Regulations provide such power to the Land Court. To the contrary, the Rules and Regulations set forth specific deadlines for filing claims and provide that untimely claims shall be forfeited. L.C. Reg. 11–12. Accordingly, for the power to exist, it must reside in the Land Court's inherent authority. *Sadang*, 10 ROP at 101–02.

II. The Land Court's Inherent Authority

A court's inherent authority is limited to those "powers necessary to . . . carrying out [its] functions as [a] court[]." *Cushnie v. Oiterong*, 4 ROP Intrm. 216, 218 (1994). In light of the fact that, "[t]he primary function of courts is to make decisions with regard to matters properly brought before them," 20 Am. Jur. 2d Courts § 34, we have held that a court has the inherent authority to reconsider its decisions, *Shmull v. Ngirirs Clan*, 11 ROP 198, 202–03 (2004); enforce its judgments, *Bechab v. Anastacio*, Civ. App. 12-007, slip op. at 12 (Jan. 11, 2013); and issue penalties for contempt, *Cushnie*, 4 ROP at 218–19.

Unlike the three inherent powers articulated above, the power advanced by Klai Clan—amending a pleading by trying the issue by consent—is unnecessary for the Land Court to carry out its function to the extent that it would permit the Land Court to render a

decision on a claim not property before it—that is, a claim filed less than sixty days before a hearing. *See* L.C. Reg. 11–12 (untimely claims are forfeited).

CONCLUSION

For the reasons set forth above, we reject Klai Clan's sole enumeration of error—that its claim was amended when the Land Court tried the superior title issue. Accordingly, we **AFFIRM** the Land Court's Decision.

SO ORDERED, this 22nd day of August, 2013.

/s/

KATHLEEN M. SALII
Associate Justice

Lourdes F. Materne

LOURDES F. MATERNE
Associate Justice

R. ASHBY PATE
Associate Justice