

**IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION**

IDID CLAN,

Appellant,

v.

PALAU PUBLIC LANDS
AUTHORITY ET AL.,

Appellees.

CIVIL APPEAL NO. 14-020
(Appeal from LC/B 09-00127)

OPINION

Decided: March 21, 2016

BEFORE: KATHLEEN M. SALII, Associate Justice
R. ASHBY PATE, Associate Justice
HONORA E. REMENGESAU RUDIMCH, Associate Justice Pro Tem

Appeal from the Land Court, the Honorable SALVADOR INGEREKLII, Associate Judge, presiding.

PER CURIAM:

Idid Clan appeals the Land Court's determinations of ownership of Lots 2006 B 012-001 and 2006 B 012-001B, depicted on BLS Worksheet No. 2006 B 012. For the following reasons, the Land Court's determination of ownership of Lot 2006 B 012-001 is **AFFIRMED** and its determination of ownership of Lot 2006 B 012-001B is **VACATED**. The matter is **REMANDED** for proceedings consistent with this opinion.¹

¹ We determine pursuant to ROP R. App. P. 34(a) that oral argument is unnecessary to resolve this matter.

BACKGROUND

This appeal involves two plots of land located in and around the campus of Palau Community College (PCC). PCC's campus — specifically, Lot 40947 on Map 4006/78² — has a somewhat unusual status under Palauan land law, so a short history of title to Lot 40947 is helpful. Through a series of deeds and agreements executed in the early 1980s, Palau Public Lands Authority (PPLA) transferred to Koror State Public Lands Authority (KSPLA) the majority of the public lands located in Koror State that PPLA had acquired from the Trust Territory Government. These efforts apparently culminated in a quitclaim deed executed in 1983, which conveyed all of PPLA's remaining interests in any public lands within the boundaries of Koror State to KSPLA, subject to two exceptions, one of which was Lot 40947. Lot 40947 was then the site of Micronesian Occupational College and is currently the site of Palau Community College.

In 1993, the OEK enacted Title 22 of the Palau National Code, which concerns education. With respect to the PCC campus, this law states, in pertinent part:

The Republic shall provide land it deems necessary for the College. Currently the United States Government holds title to the land occupied or used by the College more particularly described as Lot No. 40947 on drawing 4006/78.... [T]he Board of Trustees of Palau Community College is hereby empowered to receive, reserve and keep the interest in said land for the exclusive use of the College. Provisions of any law to the contrary notwithstanding, the Palau Public Lands Authority shall not alienate any interest in said

² Map 4006/78, specifically referenced by Title 22 of Palau's National Code, is a map from the Trust Territory Division of Lands and Surveys depicting Lot 40947. The Court takes judicial notice of Map 4006/78 as a public record. A copy of the map is attached as Appendix A.

land. Any claims that may be raised under Article XIII, Section 10 of the Constitution for any interest in any portion of said land may only be instituted as an action in inverse condemnation.

22 PNC § 341(b) (emphasis added).

On January 20, 2014, the Land Court began land determination hearings for parcels that included Lots 2006 B 012-001 and 2006 B 012-001B.³ Among the claimants was Idid Clan, asserting return-of-public-land claims (“ROPL claims”) to Lots 001 and 001B.⁴ KSPLA also participated, claiming superior title to Lots 001 and 001B as the proper administrator of the land. Before the proceedings concluded, PPLA moved to intervene, asserting a claim of superior title to Lot 001. The Land Court granted PPLA’s motion over KSPLA’s objection.

In its decision following the hearing, the Land Court analyzed Idid Clan’s ROPL claims under the provisions of 35 PNC § 1304(b), the legislative implementation of the ROPL Clause, and concluded that Idid Clan failed to show it used or occupied the land at issue when it was taken by the Japanese. After concluding that no citizen claimants proved their ROPL claims for Lots 001 and 001B, the Land Court issued a determination of ownership of Lot 001 in favor of PPLA and a determination of

³ The Lots are depicted in Appendix B to this opinion. Where the references are unambiguous, the Court will refer to Lot 2006 B 012-001 and Lot 2006 B 012-001B as “Lot 001” and “Lot 001B,” respectively.

⁴ ROPL claims are authorized under Article XIII, § 10 of Palau Constitution (“ROPL Clause”), which provides, “The national government shall, within five (5) years of the effective date of this Constitution, provide for the return to the original owners or their heirs of any land which became part of the public lands as a result of the acquisition by previous occupying powers or their nationals through force, coercion, fraud, or without just compensation or adequate consideration.”

ownership of Lot 001B in favor of KSPLA. Idid Clan timely appealed both determinations.⁵

STANDARD OF REVIEW

A trial judge decides issues that come in three forms, and decisions on each type of issue require a separate standard of review on appeal: there are conclusions of law, findings of fact, and matters of discretion. *See Remengesau v. ROP*, 18 ROP 113, 118 (2011); *Ngoriakl v. Gulibert*, 16 ROP 105, 106-07 (2008); *see also, Pierce v. Underwood*, 487 U.S. 552, 557-58 (1988). Matters of law we decide *de novo*. *Uchelkumer Clan v. Soweï Clan*, 15 ROP 11, 13 (2008); *Koror State Pub. Lands Auth. v. Ngirmang*, 14 ROP 29, 31 (2006). We review findings of fact for clear error. *Urebau Clan v. Bukl Clan*, 21 ROP 47, 48 (2014). Under this standard, the factual determinations of the lower court will not be set aside if they are supported by such relevant evidence that a reasonable trier of fact could have reached the same conclusion, unless this Court is left with a definite and firm conviction that a mistake has been made. *Itolochang Lineage v. NSPLA*, 14 ROP 136, 138 (2007). Matters of discretion are evaluated for abuse of that discretion. *Remengesau*, 18 ROP at 118 (2011). “An abuse of discretion occurs when a relevant factor that should have been given significant weight is not considered, when an irrelevant or improper factor is considered and given

⁵ KSPLA separately appealed the Land Court’s order granting PPLA’s motion to intervene and its determination that PPLA held superior title to Lot 001. The Land Court’s resolution of these two issues was affirmed on May 26, 2015. *KSPLA v. Idid Clan*, Civ. App. No. 14-005. Having already affirmed the Land Court’s determination of superior title to Lot 001, the Court is now tasked only with reviewing the Land Court’s rejection of Idid Clan’s ROPL claims.

significant weight, or when all proper and no improper factors are considered, but the court in weighing those factors commits a clear error of judgment.” *Eller v. ROP*, 10 ROP 122, 128-29 (2003) (citing *U.S. v. Kramer*, 827 F.2d 1174, 1179 (8th Cir. 1987)). Additionally, “[t]here is an abuse of discretion if the trial court grounds its decision upon a mistaken view of the evidence or an erroneous view of the law.” *Krolkowski v. Chicago & Nw. Transp. Co.*, 278 N.W.2d 865, 868 (Wis. 1979); accord *U.S. v. Ganier*, 468 F.3d 920, 925 (6th Cir. 2006) (“[I]t is an abuse of discretion to make errors of law or clear errors of factual determination.” (quotation marks, citation omitted.)).

DISCUSSION

Idid Clan argues on appeal that the Land Court erred in concluding it failed to prove it used or occupied the land at issue when the land was taken by the Japanese. However, before addressing this argument, the Court must consider the threshold matter of jurisdiction. As an appellate court, we have a special obligation to satisfy ourselves of our own jurisdiction and the jurisdiction of the lower court the decision of which we are reviewing, even if the parties (and the lower court) are willing to assume it. *E.g. Rengulbai v. Klai Clan*, Civ. App. No. 14-006, slip op. at *6-7 (April 14, 2015) (“Every court, before ruling on a claim, motion, case, or other issue, must possess and be satisfied of its jurisdiction.... On appeal, this extends to review of the jurisdiction of lower courts, because an order entered without jurisdiction is without force and must be vacated. It is with this in mind that we address the Trial Division’s jurisdiction... despite the fact that the parties did not raise or dispute it....”). Accordingly, before turning to the

Land Court’s determination regarding Idid Clan’s prior ownership of the land at issue, the Court will first⁶ consider the Land Court’s jurisdiction to adjudicate the issue. As explained further below, we conclude that the Land Court lacked jurisdiction to adjudicate the merits of Idid Clan’s ROPL claim to Lot 001, but because the Land Court’s lack of jurisdiction only implicates the *res judicata* effect of its determination and not its correctness, we affirm the determination.⁷ The Land Court failed to make adequate factual findings to determine its jurisdiction over Idid Clan’s ROPL claim to Lot 001B, so we vacate the determination and remand for further factual finding.

A. The Land Court exceeded its jurisdiction in adjudicating the merits of Idid Clan’s ROPL claims to land within Lot 40947.

As explained in more detail below, the Court concludes that ROPL claims to any portion of Lot 40947 fall outside the Land Court’s jurisdiction. Lot 40947 is specially set aside by statute such that any claim to it must sound in inverse condemnation. An inverse condemnation claim, by definition, seeks money damages rather than recovery of title and it is outside the Land Court’s authority to grant monetary relief.

⁶ After noting its own appellate jurisdiction under Const. Art. X, § 6 and 35 PNC § 1313, of course.

⁷ *Cf. Ingelai Clan v. Emesiochel*, 3 ROP Intrm. 219, 222 (1992) (lower court’s decision may be affirmed on “any basis apparent in the record”); 5 Am. Jur. 2d Appellate Review § 775 (2007) (“An appellate court is not limited, in affirming a judgment, to grounds raised by the parties, or grounds relied upon by the court below. Thus, an appellate court may affirm lower court’s [sic] decision on grounds that differ from those relied on below. Essentially, therefore, where a separate and independent ground” supports the decision below, affirmance is proper.); *accord Franklin Bldg. Supply Co., Inc. v. Hymas*, 339 P.3d 357 (Idaho 2014) (the Supreme Court will use the correct legal theory to affirm the correct decision of a district court even when it is based on an erroneous legal theory).

The Land Court recognized that Idid Clan's claims were ROPL claims and that Lot 001 falls within Lot 40947, which — as explained below — should have concluded its analysis on the merits; it erred in proceeding to adjudicate whether Idid Clan used or occupied Lot 001 at the time it was taken by the Japanese. The Land Court did not address whether Lot 001B falls within Lot 40947, but it appears from Map 4006/78 that at least some portion of Lot 001B is also within Lot 40947. The Land Court proceeded to adjudicate Idid Clan's ROPL claim to Lot 001B irrespective of whether some or all of it fell within Lot 40947. The record is therefore insufficient to determine whether the Land Court had authority to adjudicate the merits of Idid Clan's ROPL claim to any portion of Lot 001B.

1. Idid Clan's claims are for an interest in a portion of Lot 40947.

Idid Clan's asserted claims are for Lots 2006 B 012-001 and 2006 B 012-001B, depicted on BLS Worksheet No. 2006 B 012. As part of its findings of fact, the Land Court determined that Lot 001 falls within Lot No. 40947. *See* Land Court Decision at 6. This factual determination is not challenged on appeal.

The Land Court did not make an explicit finding of fact regarding whether all or any part of Lot 001B is within Lot 40947. However, comparing BLS Worksheet No. 2006 B 012 with Map 4006/78 depicting Lot 40947, it appears that at least part of Lot 001B falls within Lot 40947. Specifically, the building labeled "storage" on Map 4006/78, which is contained within Lot 40947, is also contained within Lot 2006 B 012-001B on BLS Worksheet No. 2006 B 012.

Accordingly, Idid Clan's claim to Lot 001 is for an interest in some portion of Lot 40947, and its claim to Lot 001B appears to be as well.

2. *A Claim for any portion of Lot 40947 may only be instituted as an action in inverse condemnation.*

The Palau National Code provides for distinctive treatment of ROPL claims to Lot 40947. *See generally* 22 PNC § 341(b). Of course, as this Court has recognized, Lot 40947 “is public land subject to return under Article XIII, Section 10.” *Palau Cmty. Coll. v. Ibai Lineage*, 10 ROP 143, 147 (2003). Fully consistent with this fact, § 341(b) “explicitly recognizes that claims [to Lot 40947] might be brought under Article XIII, Section 10 and limits those claims to actions in inverse condemnation.” *Id.* (emphasis added); *see also* 22 PNC § 341(b) (“Any claims that may be raised under Article XIII, Section 10 of the Constitution for any interest in any portion of said land may only be instituted as an action in inverse condemnation.”).

Idid Clan's claims to the Lots at issue are indisputably claims “raised under Article XIII, Section 10 of the Constitution,” for purposes of 22 PNC § 341(b): Idid Clan argued its claims as ROPL claims and the Land Court analyzed the claims under 35 PNC § 1304(b), which we have recognized as “the implementation statute for the Return of Public Lands Clause of the Palau Constitution.” *PPLA v. Tmiu Clan*, 8 ROP 326, 326 (2001); *see also PPLA v. Salvador*, 8 ROP Intrm. 73, 76 (1999) (“[S]ubsection 1104(b) and the Land Court counterpart, subsection 1304(b),... are the implementation provisions for Article XIII, section 10 of the Constitution.”); *ROP v. Wally*, 10 ROP 85, 86 (2003) (“The case was before the Land Court pursuant to 35 PNC § 1304(b), which

is the current codification of the implementation section for the Return of Public Lands Clause of the Palau Constitution.”).

As claims “raised under Article XIII, Section 10 of the Constitution” for an interest in a portion of Lot 40947, Idid Clan’s claims are subject to 22 PNC § 341(b) and therefore may only be instituted as an action in inverse condemnation.

3. *Inverse condemnation claims are for monetary compensation rather than for an award of title.*

Having determined that ROPL claims to Lot 40947 must be instituted as actions in inverse condemnation, it remains to determine what effect this conclusion has on the claims. “Inverse condemnation is the name given to a cause of action against a governmental agency to recover the value of property which has been taken in fact by the governmental agency, even though there has been no formal exercise of the power of eminent domain.” Restatement (Second) of Property: Land. & Ten. § 8.1 cmt. d (1977).

Unlike claims under 35 PNC § 1304(b),⁸ which when successful result in an award of title to a successful claimant, “[i]nverse condemnation is a cause of action for compensation.” 27 Am. Jur. 2d *Eminent Domain* § 684 (2014); *see also U.S. v. Clarke*, 445 US 253, 257 (1980) (“The phrase ‘inverse condemnation’ appears to be one that was coined simply as a shorthand description of the manner in which a landowner

⁸ 35 PNC § 1304(b) provides that “[t]he Land Court shall award ownership of public land, or land claimed as public land, to any citizen or citizens of the Republic who prove” the elements enumerated in §§ 1304(b)(1)-(2). This provision functions in coordination with 35 PNC § 1314(b), which provides for the issuance of title based on the Land Court’s determination.

recovers just compensation for a taking of his property when condemnation proceedings have not been instituted.”); *id.* at 255 (“[A] landowner’s action to recover just compensation for a taking by physical intrusion has come to be referred to as ‘inverse’ or ‘reverse’ condemnation....”).

Unlike claims for an award of title under 35 PNC § 1304(b), inverse condemnation claims under the ROPL Clause are not created by statute. Rather, such claims are “a result of the self-executing character of the constitutional provision with respect to compensation.” *Clarke*, 445 U.S. at 257; *compare* 27 Am. Jur. 2d *Eminent Domain* § 684 (“A claim for inverse condemnation derives from the self-executing character of the [relevant] constitutional provisions; of its own force, the... Constitution furnishes a basis for a court to award money damages....”) *with Kumer Clan/Lineage v. KSPLA*, 20 ROP 102, 107 (2013) (noting that Article XIII, § 10 of the Palau Constitution is self-executing) (*citing Ngerungel Clan v. Eriich*, 15 ROP 96, 99 (2008)).

Inverse condemnation claims thus stand in stark contrast to claims asserted under 35 PNC § 1304(b). While actions in inverse condemnation seek monetary compensation and exist independently of statutory implementation, § 1304(b) claims seek an award of title and are creatures of statutory enactment. As such, they are subject to whatever limitations the legislature may choose to place upon them. By explicitly requiring that ROPL claims to portions of Lot 40947 be instituted as actions in inverse condemnation, 22 PNC § 341(b) acknowledges the validity of ROPL claims to Lot 40947, but limits

the form of relief available on such claims to monetary awards in the form of compensation.

Accordingly, to the extent Idid Clan holds a valid claim under Article XIII, § 10 for any portion of Lot 40947, the only relief available on that claim is compensation.

4. *The Land Court's jurisdiction does not extend to claims for monetary compensation.*

The responsibilities of the Land Court are set forth in 35 PNC §§ 1304(a)–(b). “Section 1304(a) provides that the Land Court ‘shall proceed on a systematic basis to hold hearings and make determinations with respect to the *ownership* of all lands within the Republic.’ Similarly, § 1304(b) authorizes the Land Court to ‘award ownership’ in Return-of-Public-Land cases.” *ROP v. Wally*, 10 ROP 85, 87 (2003) (emphasis in original). This Court has treated § 1304(a) as jurisdictional, setting forth the boundaries of the Land Court’s authority to adjudicate disputes. *See, e.g., PPLA v. Salvador*, 8 ROP Intrm. 73, 76 (1999) (“Subsection 1104(a) of Title 35 was the general jurisdiction provision for the Land Claims Hearing Office, and the comparable Land Court statute is 35 PNC § 1304(a).... In contrast, subsection 1104(b) and the Land Court counterpart, subsection 1304(b), are not grants of general jurisdiction, but are the implementation provisions for Article XIII, section 10 of the constitution.”). Under these precedents, the Land Court’s authority to adjudicate ROPL claims is not freestanding, but derivative of its statutory authority under § 1304(a) to make determinations of ownership. As a necessary consequence of this, any claim that — if successful — would merit relief

other than title to the land under consideration is beyond the Land Court's adjudicatory authority.

Our decision in *Itolochang Lineage v. NSPLA* is instructive in this regard. 14 ROP 136 (2007). In *Itolochang Lineage*, the Land Court adjudicated NSPLA's interest in the claimed land under the common-law doctrine of dedication to public use and awarded the land to NSPLA on that basis. We reversed its determination of ownership on the ground that "common-law dedication transfers only a servitude or easement." *Id.* at 139 (quoting Restatement of Property: *Servitudes* § 2.18 cmt. d (2000)). Importantly, we did not review the Land Court's finding that the elements of dedication to public use were met; in fact, we noted that NSPLA's claim under the doctrine might in fact be valid. *Id.* at 139-40 n.5 ("A proper application of the common law dedication to public use doctrine in the circumstances presented here could result in... the public [having] a right to use portions of 32H24-A.").

However, we did not permit the Land Court to adjudicate the possessory use claim on remand, because it lacked the power to award the only relief that would be warranted under the claim. *Id.* ("The Appellate Division has already determined, however, that the Land Court's jurisdiction is limited to determinations of title.... Thus, the Land Court does not have the power to declare the existence or non-existence of a servitude or easement."). Accordingly, we reversed and "remanded for the sole purpose of issuing a Determination of Ownership in favor of [Appellant]." *Id.* at 140. With

respect to the potential merits of NSPLA’s claim, we simply noted that “NSPLA may seek relief in an appropriate forum.” *Id.* at 139-40 n.5.

Because “the Land Court’s jurisdiction is limited to determinations of title,” *id.*, when presented with a land claim for which the appropriate relief is anything other than actual title to the land, it is error for the Land Court to proceed to the merits of that claim. We hereby reaffirm this Court’s holding in *ROP v. Wally* that, “[b]ecause Land Court jurisdiction is limited to determinations of land titles, adjudications of [claims for relief other than title to land] are not within that Court’s statutory responsibility.” *Wally*, 10 ROP at 86.

The Land Court’s assignment is already an outsized one: to determine ownership to, and to issue certificates of title for, all land in the Republic. To require the Land Court to also address [compensation] rights in addition to determining ownership to real property will saddle that Court with a task not required by the statute.

...

The language of the statutory grant of jurisdiction in Title 35 is explicit: the legislature has authorized the Land Court to make determinations of ownership and to award ownership of public lands to private citizens in specific circumstances. The Land Court has no further adjudicatory responsibility.

Id. at 87.

Pursuant to 22 PNC § 341(b), with respect to Lot 40947, the only relief that can be granted on a party’s ROPL claim is monetary compensation, which “is neither a determination of ownership nor an award of ownership.” *Id.* Such claims therefore fall outside the Land Court’s jurisdiction and it was error for the Land Court to proceed to a determination of whether the elements of an ROPL claim are met.

B. This Court lacks jurisdiction on appeal to reach the merits of Idid Clan’s ROPL claims to land within Lot 40947.

As an appellate court, we have a special obligation to satisfy ourselves of our own jurisdiction and the jurisdiction of the lower court whose decision we are reviewing, even if the parties (and the lower court) are willing to assume it. *E.g.*, *Rengulbai v. Klai Clan*, Civ. App. No. 14-006, slip op. at *6-7 (April 14, 2015) (“Every court, before ruling on a claim, motion, case, or other issue, must possess and be satisfied of its jurisdiction.... On appeal, this extends to review of the jurisdiction of lower courts, because an order entered without jurisdiction is without force and must be vacated.”); *Rechetuker v. Ministry of Justice*, 17 ROP 25, 27 (2009) (“[T]his Court is duty-bound to pay heed — sua sponte as the case may be — to this [jurisdictional] issue: ‘[A] court has the power and duty to examine and determine whether it has jurisdiction of a matter presented to it.’ *Roman Tmetuchl Family Trust v. Ordomek Hamlet*, 11 ROP 158, 160 (2004) (quoting 20 Am. Jur. 2d *Courts* § 60 (1995)).”); accord *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 95 (1998).

Where a lower court lacks jurisdiction to reach the merits of a claim, this Court has appellate jurisdiction only to correct the lower court’s error in adjudicating the claim, not to review the merits of the claim itself. *See, e.g.*, *Ngatpang State v. Ngiradilubech*, 11 ROP 89, 90 (2004) (“Because... the Land Court lacked jurisdiction to hear these claims, we vacate the judgment and remand the case to the Land Court for the purpose of vacating the determinations of ownership issued in this case.”); *KSPLA v. Idid Clan*, Civ. App. No. 14-005, slip op. at *9, *9 n.10 (May 26, 2015) (refusing to

review a particular finding of the Land Court “because the Land Court should never have reached (or even considered)” the issue); *accord Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 95 (1998) (“[I]f the record discloses that the lower court was without jurisdiction this court will notice the defect, although the parties make no contention concerning it. When the lower... court lacks jurisdiction, we have jurisdiction on appeal, not of the merits but merely for the purpose of correcting the error of the lower court in entertaining the suit.”) (quoting *Arizonans for Official English v. Arizona*, 520 U.S. 43, 73 (1997)).

Because the Land Court lacked jurisdiction to determine in the first instance whether the elements of an ROPL claim are met with respect to Lot 40947, this Court lacks jurisdiction to review the correctness of those determinations on appeal.

C. The Land Court had jurisdiction to determine title to Lots 001 and 001B and this Court has appellate jurisdiction over those determinations.

As explained above, the Land Court lacked jurisdiction to reach the merits of Idid Clan’s ROPL claims to land within Lot 40947, because the only relief available for those claims is monetary compensation. Had the Land Court purported to enter judgment on such claims, this Court would be obligated to vacate the judgment on appeal as having been entered without jurisdiction. Importantly though, the Land Court never purported to enter any sort of judgment other than its determinations of ownership, determinations which it undoubtedly had authority under § 1304(a) to render. Accordingly, because the Land Court did not enter judgment on Idid Clan’s claims, there is no judgment to vacate. It suffices simply to note that the Land Court’s

lack of jurisdiction to adjudicate Idid Clan's entitlement to compensation renders its determination of ownership non-claim-preclusive⁹ and non-issue-preclusive.¹⁰

Because the only decisions on appeal are the Land Court's determinations of ownership, which the Land Court undoubtedly had jurisdiction to render under § 1304(a), this Court has appellate jurisdiction to review the merits of those determinations, which it accordingly turns to now.

D. The Land Court did not commit reversible error in determining ownership of Lot 001.

The Land Court determined ownership of Lot 001 in favor of PPLA. While it undoubtedly had the authority to make a determination of ownership, because the relief available under Idid Clan's ROPL claim to Lot 001 is limited to monetary compensation, the Land Court did not have the authority to grant relief on Idid Clan's claim. The Land Court therefore did not err in determining ownership in favor of the strongest claimant permitted to seek actual title to Lot 001.

As noted above, the Land Court explicitly found that Lot 001 is within Lot 40947, a finding that is not challenged on appeal. The Land Court also recognized that Idid Clan claimed ownership of Lot 001 "as a return of public land, based on prior ownership." (Land Court Determination at 2.) This should have concluded the inquiry.

⁹ See Restatement (Second) of Judgments § 26(1)(c) (1982) (Claim preclusion does not apply when "[t]he plaintiff was unable to... seek a certain remedy or form of relief in the first action because of the limitations on the subject matter jurisdiction of the courts... and the plaintiff desires in the second action to... seek that remedy or form of relief....").

¹⁰ See fn. 12.

Under § 341(b), monetary compensation is the only available relief for ROPL claims to land within Lot 40947, which the Land Court has no power to award. Because the Land Court lacked the power to award the only available relief on Idid Clan’s ROPL claim to Lot 001, it erred in proceeding to a determination on whether the elements of an ROPL claim were met.

The Land Court should have concluded that it lacked jurisdiction to adjudicate the claim. The Land Court would then have had two options with respect to the remaining claims. First, the court could have dismissed Idid Clan’s ROPL claim¹¹ and proceeded to adjudicate the claims over which it had jurisdiction. Second, if the court determined that judicial efficiency would be best served by adjudicating the superior title claims concurrently with Idid Clan’s ROPL claim, it could have referred the claims to the Trial Division of the Supreme Court pursuant to 35 PNC § 1304(d), where the claims for title could be adjudicated along with Idid Clan’s ROPL claim for compensation.

Irrespective of which approach the Land Court might have taken, it would have no cause to determine whether Idid Clan is the original owner of Lot 001 or whether the “people of Idid used or occupied the land when it was taken by the Japanese.” (Land Court Decision at 11.) Accordingly, although it has been challenged on appeal, “[w]e express no opinion on the validity of this finding, because the Land Court should never

¹¹ Such dismissal would, like all dismissals for lack of jurisdiction, be without prejudice.

have reached (or even considered)” it.¹² *KSPLA v. Idid Clan*, Civ. App. No. 14-005, slip op. at *9 (May 26, 2015).

Whatever other relief Idid Clan might be entitled to seek under Article XIII, § 10, it cannot claim actual title to Lot 001, as such claims are statutorily barred by 22 PNC § 341(b). Accordingly, the Land Court’s award of Lot 001 to PPLA, whose superior title claim suffered no such infirmity, was proper. The Land Court’s determination of ownership of Lot 2006 B 012-001 is accordingly affirmed. Should Idid Clan wish to pursue claims to Lot 001 under Article XIII, § 10, it must institute a proper action in a court with jurisdiction to adjudicate such claims.

E. The Land Court’s factual findings regarding Lot 001B are insufficient to permit review of its determination of ownership.

As noted above, the Land Court did not make any factual findings regarding the boundaries of Lot 001B with respect to Lot 40947. Such a factual determination is essential, because the Land Court’s jurisdiction to entertain Idid Clan’s ROPL claim to Lot 001B depends on it.¹³ As noted above, it appears from Map 4006/78 that at least some portion of Lot 001B may be within Lot 40947, but the exact determination of

¹² For the same reason, the Land Court’s determinations in this regard would not have issue-preclusive effect if Idid Clan were to pursue its ROPL claims to Lot 001 in a Court with jurisdiction to adjudicate actions in inverse condemnation. *See* Restatement (Second) of Judgments § 27 (“When an issue of fact or law is actually litigated and determined by a valid and final judgment, *and the determination is essential to the judgment*, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim.”) (emphasis added); *id.* at § 27 cmt. h (“If issues are determined but the judgment is not dependent upon the determinations, relitigation of those issues in a subsequent action between the parties is not precluded.”).

¹³ The findings may also impact the strength of PPLA’s and KSPLA’s respective superior title claims to any portions of Lot 001B falling within Lot 40947.

boundaries are most appropriately made by the Land Court in the first instance. Accordingly, the Land Court's determination of ownership of Lot 2006 B 012-001B is vacated and the matter is remanded for factual findings regarding the boundaries of the lot with respect to Lot 40497 and further proceedings consistent with this opinion.

CONCLUSION

For the foregoing reasons, the Land Court's determination of ownership of Lot 2006 B 012-001 is **AFFIRMED**, its determination of ownership of Lot 2006 B 012-001B is **VACATED**, and the matter is **REMANDED** for further proceedings consistent with this opinion.

SO ORDERED, this twenty-first day of March, 2016.

