IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

In the matter of the ownership of parcels referred to as
Ngetekiyuid/Uchellulk,
located in Ngeruluobel, Airai State,
and depicted as Cadastral Lots 086 N 02, 086 N 03, 086 N 04, 086 N 05

SHALLUM ETPISON,

Appellant,

v.

NGERULUOBEL HAMLET
represented by **TECHUR RECHEBTANG RENGULBAI,**
LEBAL RENGUUL, ROSA BORJA, GLORIA R. TELL,
and the **ESTATE OF ELONG NAKAMURA,**
by personal representative **CAROLYN TAKADA**[1]

Appellees.

Cite as: 2020 Palau 10
Civil Appeal 19-024
Appeal from Case No. SP/N 19-0264
(Ref. Case No. LC/N 09-0193)

Decided: April 13, 2020[2]

Counsel for Appellant ..... Lalli Chin Sakuma & Steven R. Marks

Counsel for Appellees[3] ..... C. Quay Polloi

BEFORE: GREGORY DOLIN, Associate Justice
DANIEL R. FOLEY, Associate Justice
KEVIN BENNARDO, Associate Justice

Appeal from the Land Court, the Honorable Rose Mary Skebong, Acting Senior Judge, presiding.

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[1] This Court takes judicial notice of the fact that Elong Nakamura is deceased. One of the listed "*pro se* parties," Carolyn Takada, is her daughter and the representative of her estate. This Court has also corrected the caption to reflect that Ngeruluobel Hamlet is the real party in interest in this appeal and was the actual claimant below, not Techur Rechebtang Rengulbai. *See Arbedul v. Iderbei Lineage*, 7 ROP Intrm. 53, 53 n.1 (1998) (noting that the Appellate Division can correct captions of its own motion to reflect the real party in interest).

[2] While under ordinary circumstances this Court would have scheduled oral argument in this case, given the state of national emergency we dispense with oral argument decide the case on the briefs under ROP R. App. P. 34(a).

[3] Appellees' attorney represents some, but not all, of Appellees, but the remaining Appellees were individuals who lost in the Land Court and did not file briefs. We nevertheless note that they have been served with the filings and orders in this case.

OPINION

DOLIN, Associate Justice:

[¶1] Appellant, Shallum Etpison, appeals from the denial of his Motion to Intervene in a Land Court matter that was decided in 2014—five years prior to the filing of his Motion. Because we conclude that the Land Court was within its discretion to deny the belated Motion to Intervene, we **AFFIRM** the judgment below.

FACTS AND PROCEDURAL HISTORY

[¶2] For a number of reasons, the procedural and factual history of this case is rather complex. First, several prior cases are relevant to the resolution of this matter. Second, the confusion is compounded by the fact that there are two distinct, non-adjacent pieces of land that are both referred to as *Ngetekiyuid*.[4] Unfortunately, neither party's brief clearly sets forth the procedural history of these cases for the Court. Due to the Byzantine history of this case, setting forth the facts in detail will pay dividends with regards to the clarity of our discussion later in this opinion.[5] The good news is that the legal issues raised and resolved by this opinion are much more straightforward than the road leading up to this point.

[¶3] In essence, this case is informed by three prior cases litigating ownership of *Uchellulk*, *Ngeptuch*, and multiple different parcels known as *Ngetekiyuid*. A case in 1963 resolved the ownership of the eastern part of *Ngeptuch*. An appeal that was lodged in the Trial Division in 1983 and ultimately concluded in 1994 resolved the status of the western portion of *Ngeptuch* and the adjacent parcel which is one of those known as *Ngetekiyuid*. In 1993 (prior to final judgment being entered), two parties to that appeal reached a settlement which attempted to resolve the claims to *Uchellulk* and at least part of the *Ngetekiyuid* parcel. Finally, in 2014 a Land Court case definitively resolved the ownership of *Uchellulk* and a different portion of *Ngetekiyuid*.

A.

[¶4] The parcel at issue in the underlying Land Court case, LC/N 09-0193 (hereinafter sometimes referred to as "Land Court Case"), was Worksheet Lot No. 09 N 002-064, which included part of the lands commonly referred to by the names *Ngetekiyuid* and *Uchellulk*. After the ordinary public notice procedures, *see* 35 PNC § 1309(b), (c); ROP R. Ld. Ct. P. 7-9, Ngeruluobel Hamlet, Gloria R. Tell, Elong Nakamura, Benged Rimud, Rosa Borja, and Lebal Renguul filed claims and a monumentation was conducted. In March 2010, the remaining parties entered into a stipulation settling their claims; however, because of errors in the initial monumentation the property needed to be surveyed anew. The mater was finally disposed of in May 2014, with the Land Court ordering (in accordance with the parties' agreement) the partitioning of Lot 09 N 002-064 into four lots provisionally numbered 0640A, 064B, 064C, and 064D. Lot A and Lot B, once partition was accomplished, were

[4] Also spelled *Ngetekyuid*.

[5] Our recently filed opinion in *Etpison v. Obichang*, 2020 Palau 8 further explicates (if not fully clarifies) the relationships and long-standing disputes between many of the parties involved here.

formally renumbered as Cadastral Lots 086 N 04 and 086 N 05, respectively, and were awarded to Ngeruluobel Hamlet, with its chiefs as trustees and administrators (speaking through Rechebtang Techur Rengulbai). According to Etpison,[6] these lots are part of *Ngetekiyuid*. Lots A and D, which became Cadastral Lots 086 N 02 and 086 N 03, respectively, and which form *Uchellulk*, were awarded to the surviving children of Ngiramesubed—Elong Nakamura and Rosang Borja.

[¶5] Prior to the disposition of the Land Court case, in a letter dated January 17, 2014, Etpison's attorney contacted the Court and noted that Etpison believed he had an interest in the land,[7] but received no response. There is no indication that Etpison ever attempted to formally intervene in the then-pending case or to otherwise file a formal claim to the land. In fact, there is no evidence that Etpison ever followed up on his January 17th letter. Nor did he appeal the Land Court's judgment awarding the land to other parties. In short, Etpison did nothing at all to assert his alleged ownership of the property until he filed a Motion to Intervene in the Land Court Case on October 22, 2019. No explanation, beyond a vague statement in Etpison's brief in this Court that "another Etpison attorney heard that the subject lands had been awarded" is provided for the extraordinary delay of nearly six years between the letter and the Motion.

[¶6] Etpison's Motion was initially rejected by the Clerk because the case in which it was filed had long since been closed. Undeterred, Etpison filed a Motion to Reconsider. On November 1, 2019, the Land Court assigned a new case number to Etpison's motions (SP/N 19-0264) and then denied them by a formal Order. On November 14, 2019, in response to Etpison's Motion for Clarification, the Land Court issued another Order indicating that its denial of the Motion to Intervene was a final judgment for the purpose of appeal. This appeal followed.[8]

[¶7] Appellees, the parties who prevailed in the Land Court Case, sought to dismiss this appeal. Believing the issues raised by Appellees were better addressed on the merits, this Court denied the motion to permit full briefing of the appeal.[9]

B.

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[6] For the purposes of this opinion, we will assume without deciding that Etpison is correct about the traditional names of each parcel.

[7] It was Ngiratkel Etpison (Shallum Etpison's father) who acquired the interest in the land. Because there is no dispute that Shallum Etpison inherited his father's interest, if any, this opinion treats both individuals as one.

[8] It is unclear to this Court why Etpison attempted to make other individuals parties to this case. Although they do not appear in the caption and were not claimants in the Land Court Case, several other individuals were served with his Notice of Appeal. While Charles Obichang was apparently involved in the settlement discussions in the Land Court Case, he was not awarded any land, and neither Aric Nakamura nor Ernie Skilang appear to have been involved at all. We note, however, that these "extra" parties continued to be served with the briefs and Orders in this appeal and none of them filed anything seeking to be heard in this case. Given our holding today, we need not resolve whether or not these individuals were ever proper parties to this case.

[9] We will, however, consider the arguments on the Motion to Dismiss and the Opposition and Reply thereto in determining the merits of this appeal.

[¶8] As the basis for his letter and Motion to Intervene, Etpison asserted that he was entitled to personal service of the action in LC/N 09-0193. In support of that assertion, he cited a 1994 Order in Civil Action 232-83.

[¶9] Prior to explaining the relevance of Civil Action 232-83 to this litigation it is necessary to further describe the relevant parcels of land.[10] South of the parcels contained in Worksheet Lot No. 09 N 002-064 are two more lots that Etpison also refers to as *Ngetekiyuid*. One of these parcels is Cadastral Lot 025 N 01, which was formerly designated BL-362. Thus, while Cadastral Lots 086 N 04, 086 N 05, and 025 N 01 were apparently all known as *Ngetekiyuid*, they are not adjacent. Instead, Cadastral Lots 086 N 02 and 086 N 03, which are together known as *Uchellulk*, lie in between the different parts of *Ngetekiyuid*. To the East of Cadastral Lot 025 N 01 is Cadastral Lot 025 N 03 (formerly BL-363), which is called *Ngeptuch* (as is BL-364 to its East). South of Cadastral Lot 025 N 03 is Cadastral Lot 025 N 02 (formerly BL-439).

[¶10] The claimants of Cadastral Lot 025 N 01[11] were Ngiramesubed, his wife Iseko, Kekereldil Techong, and Iroro Ilengelang.[12] On October 5, 1983, the Land Commission awarded the lot, which it referred to as *Ngetekiyuid*, to Ngeruluobel Hamlet, with Baules as trustee. Iroro had argued that Cadastral Lot 025 N 01 actually contained parts of both *Ngeptuch* and *Ngetekyuid*. Because Iroro claimed *Ngeptuch* by right of inheritance, she (along with Kekereldil who claimed that she was the true owned of the land) appealed the Land Commission's determination to the Trial Division in what became Civil Action 232-83.[13]

[¶11] In August of 1993, while the appeal in Civil Action 232-83 was still pending, Baules (the prevailing party before the Land Commission) and Kekereldil (one of the dissatisfied claimants and Appellant's grandmother)[14] reached a settlement agreement with Baules "acknowledge[ing] the fact that both *Ngetekyuid* and *Uchellulk* originally belonged to Kekereldil's ancestor." The agreement further stated that "at the direction of Kekereldil Techong," Baules "now desires to transfer said land to Kekereldil's son, Ngiratkel Etpison." The land transferred to Etpison was identified as: "that parcel of land situated in Ngeruluobel Hamlet, known as *Ngetekyuid*, Lot BL-439 [*i.e.*, Cadastral Lot 025 N 02][15] and its adjacent

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[10] A map of the relevant parcels is attached as an Appendix to this opinion.

[11] In order to avoid perpetuating the confusion stemming from different names and lot numbers, we will, wherever possible, refer to the land in question by the current Cadastral Lot number.

[12] In different documents, Iroro's name is sometimes spelled Irorou and her last name is variously listed as Ilengelang, Reskid, and Baiei, but all appear to be the same individual, whom we will refer to as Iroro.

[13] At that time, the Trial Division had appellate jurisdiction over Land Commission's (and later the Land Claims Hearing Office's—the Land Commission's successor's) decisions. The Land Commission decision also determined the ownership of BL-363, now Cadastral Lot No. 025 N 03, but this was not appealed in Civil Action 232-83.

[14] Kekereldil and Baules were each part of a different, feuding faction of Ngerteluang Clan. *See Etpison v. Obichang*, 2020 Palau 8 (citing prior disputes between these factions).

[15] Etpison's brief states that, "to avoid bringing in a new party, Etpison is not claiming the tiny lot known as 439." Whether Etpison wants to, or even could, claim this lot over 30 years later, ownership of BL-439 was not before the Land Court in LC/N 09-0193 and is therefore not before us in this appeal.

land known as *Uchellulk*." No other lot numbers or descriptions were provided. There is no mention in the agreement of Ngeruluobel Hamlet or the fact that Baules is merely the trustee for the property.[16] The agreement was signed by Baules, Kekereldil, and Ngiratkel Etpison, who signed as a witness. While the exact scope of the settlement agreement is unclear,[17] it is clear that as consideration for the transfer of some land, Kekereldil withdrew from Civil Action No. 232-83.[18]

[¶12] Thus, when Civil Action No. 232-83 finally came before the Trial Division for determination, Iroro[19] was the only remaining appellant. The main issue was whether or not her claim to that part of Cadastral Lot 025 N 01 that was allegedly *Ngeptuch* was precluded by an earlier case, *Iroro Ilengelang v. Baules Sechelong*, 2 TTR 409 (Tr. Div. 1963) (hereinafter "1963 Case"). The 1963 Case concerned a dispute over the ownership of "the easterly part of the land known as '*Ngeptuch*'" between Iroro and Baules who, as the titleholder of the Bedechal Clan, represented Clan's interests in the action. Iroro claimed that she inherited the land in question from her stepfather who owned it in fee simple. The High Court, rejected Iroro's claim on the grounds that her stepfather was not an owner of the land in question, but "merely administered" it for the Bedechal Clan. Consequently, the Court awarded title to Baules as trustee for Bedechal Clan. In order to avoid the preclusive effect of the 1963 Case in Civil Action 232-83, Iroro argued that since the land at issue in Civil Action 232-83 was the *western* portion of *Ngeptuch*, while the 1963 decision concerned "the *easterly* part of the land known as *Ngeptuch*," the earlier decision had no effect on the resolution of the claim at hand.

[¶13] The Trial Division held a hearing on the matter, which Baules' counsel was unable to attend. Following the hearing, on May 9, 1994, the Trial Division handed down a Decision and Order (hereinafter "Remand Order") remanding the matter to the Land Claims Hearing Office (the successor of the Land Commission and the predecessor of the Land Court) so that it could consider Iroro's arguments in the first instance. Additionally, the Trial Division recognized that if Iroro's claim regarding the location of *Ngeptuch* were proved to be correct, it would mean that Cadastral Lot 25 N 01 spans both *Ngeptuch* and *Ngetekyuid*. Accordingly, although Etpison was not a party to Civil Action 232-83, given the Trial Division's recognition that he may have an interest in "some portion of *Ngetekyuid*," the Remand Order directed the LCHO to "provide notice of the new hearing to be held to . . . Etpison, and to the extent that [Etpison's] land is part of the land claimed by appellant [Iroro], [Etpison] should

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[16] As Appellee points out, Baules may well have lacked the authority as trustee to dispose of the Hamlet's land in this way, but the validity of the settlement agreement is not before us.

[17] Etpison argues that the settlement agreement intended to transfer all of the lands called *Ngetekiyuid* and *Uchellulk* as well as BL-439 to him. Although that is one plausible interpretation of the agreement, it is equally plausible the agreement only transferred BL-439, which was being described as part of *Ngetekiyuid*. It is also possible to interpret the agreement as having transferred BL-439 and the parcel actually at issue in this case, Cadastral Lot 025 N 01, which of course is also known as *Ngetekiyuid*.

[18] Although the agreement contains no mention of Iseko, both Iseko's and Kekereldil's names were dropped from the case caption. Previously, Iseko and Kekereldil are listed either as co-claimants or as Kekereldil serving as Iseko's representative.

[19] Although Iroro died during the pendency of this case and her claim continued to be pursued by her daughter, Kalista Ngirkelau, for ease of reference we will continue to refer to both of these individuals as Iroro.

be permitted to participate as a claimant therein." However, "[b]ecause [Baules'] counsel was not able to attend" the initial hearing, the Trial Division "defer[red] the entry of judgment . . . to allow a motion for reconsideration if [Baules] and his counsel deem[ed it] appropriate."

[¶14] Baules filed a timely motion for reconsideration, which the Trial Division granted. A trial was finally held in November 1994. In support of his position, Baules submitted to the court the Pre-trial Order from the 1963 Case, which made clear that in that case Iroro had claimed all of *Ngetepuch* on the same theory (that her stepfather Lebal had owned the land in fee simple and passed it down to her) that she was attempting to advance in Civil Action 232-83. According to Baules, because the 1963 Case had already determined that Iroro's stepfather was merely a trustee of the land and not its true owner, Iroro's 1994 argument with respect to the western portion of *Ngetepuch* was as infructuous as her 1963 argument with respect to the eastern portion of the same land. The Trial Division agreed that collateral estoppel barred Iroro's claim and, at long last, on November 28, 1994, entered a final judgment affirming "the decision of the Land Commission awarding" Cadastral Lot 025 N 01 to Baules as a trustee for Ngerteluang Clan. *See* Judgment, Civil Action 232-83 (Nov. 28, 1994).

[¶15] Thus, the Remand Order was never a final judgment, and was indeed vacated (albeit *sub silentio* rather than explicitly) when the Trial Division granted Baules' motion for reconsideration. Because the Trial Division's final judgment affirmed the Land Commission's award of the property to Baules, no remand was necessary.

STANDARD OF REVIEW

[¶16] We review trial court's legal determinations *de novo*, findings of fact for clear error, and exercises of discretion for abuse of that discretion. *See Shih Bin-Fang v. Mobel*, 2020 Palau 7 ¶ 18. Whether notice was "procedurally deficient is a legal question and is thus reviewed *de novo* by this Court." *Etpison v. Skilang*, 16 ROP 191, 193 (2009).

DISCUSSION

[¶17] At the outset, we reject the argument in Appellees' Motion to Dismiss that the instant appeal is untimely because it was not filed within 30 days of the Land Court's judgment in LC/N 09-0193, issued in 2014.[20] That argument is inapposite, because Etpison is appealing not from the 2014 judgment, but from the 2019 Order denying his Motion to Intervene. *See* ROP R. App. P. 4(a) ("notice of appeal shall be filed within thirty (30) days after the . . . service of a judgment *or order* in a civil case.") (emphasis added). *Cf. Henry v. Shizushi*, 21 ROP 52, 55 (2014) ("the well-settled bar for untimely appeals is not based on jurisdictional

[20] The parties dispute whether or not Etpison would have had the right to file an appeal of the initial judgment in the Land Court Case, despite not having been a party. We indicated that such a right exists in *Ulochong v. LCHO*, 6 ROP Intrm. 174, 176 (1997), which noted that "a nonparty has standing to appeal a judgment if he or she has a direct, immediate, and substantial interest which has been prejudiced by the judgment," which is consistent with the statutory requirement that a party who appeals must be "aggrieved" by the decision. *See* 35 PNC § 1113. Indeed, Etpison himself was a party to a recent case where we reaffirmed this rule. *See Etpison v. Rechucher*, 2019 Palau 25 ¶¶ 18-19. Our present decision, however, does not turn on whether Etpison could have or should have appealed the Land Court judgment.

grounds *per se*, but is instead a product of our own Rules of Appellate Procedure"). Accordingly, we will decide the appeal on the merits. Unfortunately for Appellant, the appeal has no merit.

A.

[¶18] Unlike in the Trial Division, where motions to intervene, though left to the sound discretion of the court, are governed by ROP Rule of Civil Procedure 24, *see, e.g.*, *Ngatpang State v. Rebluud*, 11 ROP 48 (2004), "the Land Court has no procedural rules for third-party interventions." *In re Mesei*, 16 ROP 338, 346 (Land Ct. 2009). Therefore, the "intervention of parties is left to the general discretion of the Land Court judge to manage the proceedings." *Rengulbai v. Klai Clan*, 22 ROP 56, 64 (2015); *see also KSPLA v. PPLA*, 22 ROP 30, 35 (2015).

[¶19] Citing to Etpison's failure to ever file a claim to Cadastral Lot 025 N 01 despite his knowledge of the proceedings affecting title to that property[21] as well as the nearly six-year delay between his 2014 letter the 2019 request to intervene, the Land Court concluded that Etpison "slept on his rights" and denied his motion.[22] Etpison has the burden to show that the Land Court abused its discretion. *See Ngoriakl v. Gulibert*, 16 ROP 105, 107 (2008). Etpison's argument is based entirely on a claim that he was entitled to, yet did not receive, personal notice of the Land Court proceedings. We disagree that he was entitled to personal notice and therefore conclude that there was no abuse of discretion by the Land Court.

[¶20] Appellant cites *Rengulbai v. Klai Clan*, 22 ROP 56 (2015) for the proposition that he should be able to belatedly intervene. What Etpison fails to appreciate is that, unlike in the case at bar, there was no final judgment in that case when intervention was sought. *See id.* at 58. Instead, *Klai Clan* was pending in the Land Court following our remand. *Id.* On remand, the Land Court initially permitted Rengulbai, who had not been previously involved in the case, to serve papers and cross-examine witnesses but later, after one of the original parties raised an objection to Rengulbai's participation, reversed course and denied Rengulbai's motion intervene. *Id.* On appeal, we reversed, holding that "because the [remand] Order did not prohibit it, the evidence in the record leaves us with the definite and firm conviction that such intervention was in fact permitted. As such, the Land Court's finding that Appellant was not granted leave to intervene was clearly erroneous . . . ." *Id.* at

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[21] While it is not necessary to our holding, Etpison did have actual notice of the proceedings. In denying Etpison's Motion to Intervene, the Land Court found that: "Attorney Ridpath's January 2014 letter indicates that Etpison was aware of the 2014 proceedings yet never attempted to intervene or otherwise engage in those proceedings beyond stating a general intention to assert ownership." Attorney Ridpath's letter on its face states that Etpison had "recently learn[ed] that the ownership of this land had been adjudicated . . . [and] that there has been recent activity in this matter." In addition, the letter explicitly cites the case number, LC/N 09-019, and lists several of the parties as "cc:" Gloria R. Tell, Norman Ngiratecheboet, and Techur Rengulbai. Since Etpison was "aware of 2014 proceedings," it follows that he had actual notice.

[22] Etpison is correct when he argues in his brief that the Land Court will often be "liberal and informal [regarding] motions to intervene," in part because the "Land Court is designed to allow parties to litigate without an attorney." However, even if the Land Court would have granted a *pro se* litigant's motion to intervene under these circumstances (and we are doubtful that it would or that such a grant would not itself be an abuse of discretion) its refusal to give Etpison, a sophisticated party represented by counsel, the same leeway was within its sound discretion.

64. In other words, our decision in *Rengulbai* was not based on a legal determination that the Land Court was *required* to allow Rengulbai to intervene at that late stage in the proceedings. Rather, we concluded that the Land Court had *already* permitted intervention, and having done so could not, at least absent a good reason, withdraw such permission. Etpison's reliance on this case is consequently misplaced.

B.

[¶21] Because *Rengulbai* offers no succor to Etpison, and he does not dispute that statutory public notice was given, if he is to prevail he has to show that the Land Court erred in its conclusion that he was not entitled to personal notice of the proceedings. *Cf. Nakamura v. Isechal*, 10 ROP 134, 136 (2003) (holding that where proper notice is not given Land Court judgments can be collaterally attacked); *In re Idelui*, 17 ROP 300, 304 (2010) (affirming the Land Court's *sua sponte* decision to set aside its own judgment following its recognition that due to an administrative error it failed to give multiple claimants notice of the hearing). As we recently explained in *Rechucher v. Etpison*, only "interested parties" are entitled to notice and opportunity to be heard before the Land Court (and its predecessors). 2019 Palau 25 ¶ 13. An interested party is "is 'a person . . . who has *actually filed a claim*" in the Land Court. *Id.* (quoting *Nakamura*, 10 ROP at 138) (emphasis added). Conversely "[i]ndividuals who have not filed claims are not entitled to service of notice of the determination." *Id.* (quoting *Nakamura*, 10 ROP at 138). Furthermore, "[a]ny claim not timely filed shall be forfeited" in accordance with the statutes governing the Land Court. 35 PNC § 1309(a). There is no dispute that Etpison has never formally filed a claim to the land in question, and therefore forfeited it.

[¶22] Etpison tries to avoid the application of this rule by arguing that the Land Court was required to provide him with personal notice regarding the proceedings in LC/N 09-0193 because it was bound by the 1994 Remand Order. In support of that proposition, Etpison argues that the Remand Order concluded that all the lands known as *Ngetekiyuid* and *Uchellulk* had been transferred to him, and therefore the Order bound the Land Court with respect to all lots where these land names are allegedly used. That is plainly incorrect for multiple reasons.

[¶23] First, and foremost, as already discussed the Remand Order was never operative and was not part of a final judgment in Civil Action 232-83.[23] Second, even if the Remand Order were operative, it does not mention *Uchellulk*, and simply states that: "a stipulation was entered transferring *some portion* of *Ngetekyuid* to . . . Etpison." (Emphasis added). The reason that the Trial Division contemplated providing Etpison with personal notice with regard to the adjudication of Cadastral Lot 025 N 01 was out of concern that Iroro's claim to the western part of *Ngeptuch* might infringe upon Etpison's land, because *Ngetekiyuid* shared

[23] Appellant also argues that he was entitled to personal notice because the January 17, 2014 letter with a copy of the Remand Order was sent to the Land Registration Officer who worked on LC/N 09-0193 and because the Remand Order was otherwise "in the Land Court files." Of course, since the Remand Order was never operative, its physical location or the awareness of its existence by anyone are of little relevance. Nor will we charge the Land Registration Officer with examining the entirety of every case file that might relate to the subject property because the same traditional name was used in that case.

a border with *Ngeptuch* and, at least according to Iroro, Cadastral Lot 025 N 01 contained part of *Ngeptuch*. Nothing in the Remand Order even remotely sought to determine which portion (if any) of *Ngetekyuid* was transferred to Etpison[24] or where the border between *Ngetekiyuid* and *Ngeptuch* was actually located. All the Trial Division sought to do was to permit Etpison to protect his rights to the extent that Iroro's claims were potentially inconsistent with those rights. Of course, because Iroro ultimately was held to have no rights in Cadastral Lot 025 N 01, there was nothing for Etpison to protect.

[¶24] In addition, the underlying Land Court case in which Etpison sought to intervene concerned what ultimately became Cadastral Lots 086 N 02, 086 N 03, 086 N 04, and 086 N 05, whereas Civil Action 232-83 involved Cadastral Lot 025 N 01—a distinct parcel of land, as Etpison himself repeatedly points out. Because courts decide cases before them, the Trial Division certainly could—as it would have done in this case had it not later reconsidered the 1994 Remand Order—issue explicit instructions to the Land Court on remand with respect to the *parcel in question*. *See, e.g., Tengoll v. Tbang Clan*, 11 ROP 61, 64 (2004). But its decisions would not extend to and could not bind the Land Court in other, distinct cases, except to the extent that such instructions created a binding legal precedent or through the application of the well-recognized legal concepts of *res judicata* and collateral estoppel.[25] Nor does the Trial Division have the authority, even had it purported to do so, to alter the Land Court's notice procedures, which are set by statute. *See* 35 PNC § 1309. Therefore, whatever decisions the Trial Division made in Civil Action 232-83, they could extend no further than the determination of the legal status of Cadastral Lot 025 N 01. It then follows that, whatever the legal force of the 1994 Remand Order is (and as we already indicated, it is doubtful that it has any), it is inapplicable to land other than Cadastral Lot 025 N 01.

C.

[¶25] In effect Etpison is asking us to hold that every party who may have had a claim to a parcel with a particular traditional name must be given notice and an opportunity to be heard in every case where someone uses the same name for a different parcel of land. Because such a holding would fundamentally change and undermine Palau's system of land adjudication, we decline the invitation to take this radical step.

[¶26] This Court acknowledges that many Palauans still know and refer to lands only by their traditional names and, as we have seen herein, some of the older cases only utilize these names. Yet this Court is quite aware that there are many disputes in Palau about precisely where parcels bearing traditional names are located and how much land they encompass. This is apparent from even a cursory glance at Land Court records. It is quite common for the same name to be listed next to several different parcels of land in an area, or conversely

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[24] Because the Trial Division did not explicitly analyze the validity of the settlement agreement which purportedly transferred *Ngetekyuid* to Etpison, it did not have occasion to opine on whether Etpison's claim to the land is meritorious.

[25] Prior cases must be brought to the Court's attention and carefully evaluated in order for those doctrines to apply. For example, Etpison's argument to this Court that yet another prior case already determined that Ngiramesubed was not the owner of *Ngetekiyuid* and *Uchellulk* is an argument on the merits of the Land Court Case, which he waived by failing to file a claim.

for one worksheet lot number to have multiple traditional names listed for it. The purpose of the complex system of public notice and monumentation is to allow the Land Court to sort out who owns which precisely-delimited parcel of land. *See generally* 35 PNC §§ 1304-1310. "[C]ontroversy as to the names of the individual parcels included within," *Luii v. Meriang Clan*, 4 ROP Intrm. 354, 354 n.1 (Tr. Div. 1994), a particular cadastral plot is not an unusual feature in litigation. *Cf. Eklbai Clan v. KSPLA*, 22 ROP 139 (2015) (land with one traditional name eventually subdivided into fourteen separate and differently numbered parcels); *Airai State Pub. Lands Auth. v. Aimeliik State Gov't*, 12 ROP 186, 191 (Tr. Div. 2005) (parties disagreeing as to the location of a place called Tebadel).

[¶27] Indeed, all of these possibilities for confusion illustrate the importance of following the Land Court's statutorily-mandated procedures, which require potential claimants to make their claims and participate in monumentation in order to preserve all of their rights. *See* 35 PNC § 1307. The monumentation process, including surveying and assigning numbers to all of the claims, which are frequently contradictory and overlapping, is what allows the Land Court to fairly and clearly adjudicate contested land cases.

[¶28] The Land Court fulfills its duty by choosing the best claim amongst those before it or, as was the case here, effectuating a settlement amongst the claimants. *See Eklbai Clan v. KSPLA*, 22 ROP 139, 146 (2015) ("[I]n a superior title case, the Land Court has no choice but to choose [the strongest claim] between the claimants who come forward"); *In re Ngerdermang*, 19 ROP 124, 127 (2012) ("the Land Court was required to issue a determination of ownership in accordance with the agreement" where the statutory procedures were followed and all claimants agreed); 35 PNC § 1304(c). It did so in LC/N 09-0193, and its refusal to consider a request to reopen the case over five years later from someone who never filed a claim was not an abuse of its discretion.

CONCLUSION

[¶29] For all of the forgoing reasons, the judgment of the Land Court is hereby **AFFIRMED**.

SO ORDERED, this 13th day of April, 2020.

GREGORY DOLIN
Associate Justice

DANIEL R. FOLEY
Associate Justice

KEVIN BENNARDO
Associate Justice

APPENDIX TO THE OPINION

Map of Plots


Lots 086 N 02; 086 N 03 (land called Uchelbuk) and lots 086 N 04 and 086 N 05 (land called Ngetekiyaid)
Ngetekiyaid
Ngetekiyaid
Uchelbuk
Uchelbuk
Cemetery
Ngetekiyaid 025 N 01 – BL 362
025 N 03 called Ngoptuch