IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

JEANETTE REBES, JANET BILIBEI, and JENNIFER NGUAL,
Appellants,
v.
SHALLUM ETPISON,
Appellee.

Cite as: 2024 Palau 1
Civil Appeal No. 23-009
Appeal from Case No. LC/R 20-00129 and LC/R 20-00130

Decided: January 11, 2024

Counsel for Appellants ..... Salvador Remoket
Counsel for Appellee ..... Raynold B. Oilouch

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice, presiding
FRED M. ISAACS, Associate Justice
KATHERINE A. MARAMAN, Associate Justice

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

OPINION

PER CURIAM:

[¶ 1] Appellants Jeannette Rebes, Janet Bilibei, and Jennifer Ngual ("Bilibei and Ngual") appeal a Land Court Order dismissing their claims over Lots Nos. 99R3-003 and 99R3-004 in Peleliu State. The Land Court discovered a prior judgment in which the Trial Division determined that Appellee Shallum Etpison ("Etpison") owned the lots. Accordingly, the Land Court issued a Determination of Ownership and Certificate of Title awarding the lots to Etpison pursuant to the Trial Division's judgment.

[¶ 2] For the reasons set forth below, we **AFFIRM**.

BACKGROUND

[¶ 3] This case concerns Lots Nos. 99R3-003 and 99R3-004 in Peleliu State, known as *Kirmei*. The Tochi Daicho lists the land as Lot 1478, and states that it is the individual property of a man named Rebes. Rebes had four children: Ngirchobong Rebes, Mokokil Rebes, Hazime Rebes, and Sadae Rebes. Appellants are claiming Lot 1478 as the surviving grandchildren of Rebes and children of Sadae.

[¶ 4] In 1994, Etpison initiated Civil Action No. 270-94 to quiet title over certain properties in Peleliu State: Tochi Daicho Lots 1714 and 1479. The same year, notice was issued to the public for anyone claiming interests in the lands to file claims. Said notice was posted at the Peleliu State Office, Peleliu Community Building, and Peleliu Elementary School, as well as to the trees in the affected lots. It was also radio broadcasted for thirty (30) days. Because the boundaries of Etpison's claims were unclear, a land survey was conducted in 1996. Mokokil attended the survey and indicated that his claim was not in conflict with Etpison's claim. On February 3, 2000, Mokokil transferred TD Lot 1478 to Etpison through a Deed of Transfer.

[¶ 5] The Trial Division held a trial in early 2002, and on October 22, 2002, the Trial Division issued a Decision and Order, which found that Etpison purchased Lot 1478 from Mokokil. The decision states in a footnote,

> The original complaint in this case only mentioned Lot 1479. There is no question that the issue of the ownership of Lot 1478 was tried with the consent of the parties, see ROP R. Civ. Pro. 15(b), and the Court is confident that the notice in this case, although it only mentioned Lot 1479, was nevertheless sufficient to—and did—elicit any and all claims for the lots adjoining it as well.

[¶ 6] It also appears from the decision that Mokokil testified in support of Etpison's claim to Lot 1478. On September 30, 2004, the Trial Division issued a Judgment awarding ownership of Lot 1478 pursuant to the 2002 Decision.

[¶ 7] On January 24, 2023, more than 20 years after the Trial Division issued its 2002 decision awarding ownership of *Kirmei* to Etpison, the Land Court, unaware of the decision, held an ownership hearing over Lots Nos. 99R3-003 and 99R3-004. Upon learning of the Trial Division's 2002 decision and 2004 judgment, the Land Court, on February 6, 2023, halted the hearing and dismissed Appellants' claims on the grounds that the claims have been previously determined and issued a determination of ownership and certificate of title in favor of Etpison pursuant to the Trial Division Decision and Judgment.[1] Appellants filed a timely Notice of Appeal.

STANDARD OF REVIEW

[¶ 8] Pursuant to our well-established caselaw, "[w]e review the Land Court's conclusions of law de novo and its findings of fact for clear error." *Kebekol v. KSPLA*, 22 ROP 38, 40 (2015).

DISCUSSION

[¶ 9] Appellants bring forward several arguments we address in turn. First, they aver that their due process rights were violated when they did not receive notice of Civil Action 270-94 and the Land Court failed to hear their claims, depriving them of an opportunity to be heard. Second, Appellants argue that a Certificate of Title based on a transfer is not conclusive evidence of ownership.

[¶ 10] The Land Court is required to accept prior determinations of ownership under 35 PNC § 1310(b) and Rule 18 of the Land Court Rules and Regulations. *See Baules v. Toribiong*, 2016 Palau 5 ¶ 21. Section 1310(b) says:

> Except for claims and disputes still pending to public lands, the Land Court shall not hear claims or disputes as to right or title to land between parties or their successors or assigns where such claim or dispute was finally determined by . . . a court of competent

[1] The Land Court also discovered that a Certificate of Title had already been issued to Meiang Amy Chin for TD Lot 1478, but corresponding to Cadastral Lot 065 R 07. The Land Court reviewed the record and found that this Certificate of Title erroneously identified Cadastral Lot 065 R 07 as TD Lot 1478. This issue is not on appeal.

> jurisdiction. The Land Court shall . . . accept such prior determinations as binding on such parties and their successors and assigns without further evidence than the judgment or determination of ownership.

[¶ 11] 35 PNC § 1310(b); *see* Land Ct. R. & Reg. 18. While at first blush, the statute may be understood as a jurisdictional one, we have found that its language "imposes no jurisdictional limitation. Rather, such language merely requires that, in appropriate circumstances, preclusive effect be given to the prior determination." *Ngetpak Clan v. Keptot*, 9 ROP 99, 100 (2002); *see also Bailes v. Toribiong*, 2016 Palau 5 ¶ 23 ("[W]e agree with the Land Court that § 1310(b) is not a limit on the Land Court's jurisdiction, and instead refers only to preclusion."). Accordingly, the Land Court did not err in dismissing Appellants' claims, nor did it deprive them of an opportunity to be heard.

[¶ 12] Ancillary to that first argument, Appellants maintain that they were denied due process specifically because they could prove that there was no proper notice of the proceedings in Civil Action 270-94. While that may be so, "a due process challenge should be brought as a collateral attack on the underlying judgment through a quiet title action against the party named in the allegedly void determination of ownership." *Rengiil v. Urebau Clan*, 21 ROP 11, 15 (2013). In addition, the Trial Division, not the Land Court, has long been considered the proper venue for collateral attacks. *Blailes v. Bekebekmad*, 2018 Palau 5 ¶ 14 (collecting cases); *Sumang v. Skibang Lineage*, 16 ROP 4, 6 (2008). The proceedings below were not a collateral attack brought in front of the Trial Division, but proceedings to determine ownership in front of the Land Court. Accordingly, the Land Court correctly held that the ownership of *Kirmei* had already been determined.

[¶ 13] In addition, the alleged lack of notice is insufficient to overcome the statutory preclusion of 35 PNC § 1310(b). The record shows that public notice was issued, posted, and broadcast, and that the Trial Division found such notice sufficient to elicit any claims to Lot 1478, as demonstrated by the fact that Mokokil attended the land survey in 1996. Because Appellants had not filed a claim before the 2002 Decision, their claim to the land was not known, and as

a result, they were not entitled to personal notice.[2] *See* 35 PNC § 1309(b)(3) (stating that notice must be served "upon all persons personally known . . . to claim an interest in the land"); 35 PNC § 1109(c) (repealed) (stating that the Land Claims Hearing Office shall serve notice of a hearing "upon all parties shown by the preliminary inquiry to be interested"). Therefore, we find no error in the Land Court's decision to dismiss the claims.

[¶ 14] As to Appellants' remaining argument that a Certificate of Title based on a transfer is not conclusive evidence of ownership, we dismiss it outright as inapplicable to this case. The Land Court did not base its decision on the conclusiveness of a Certificate of Title. In fact, there is no evidence in the record that a Certificate of Title was ever issued in Etpison's name based on the deed of transfer. Appellants' argument wholly misconstrues the Land Court's decision and as such, we decline to address it.[3]

CONCLUSION

[¶ 15] We **AFFIRM** the Land Court's dismissal.

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[2] We also note in passing that Appellants did not convincingly argue why they should have been given notice of the proceedings in front of the Trial Division when they are grandchildren of Rebes and it is unclear whether Sadae was alive at the time.

[3] Appellants' Opening Brief could possibly be interpreted as maintaining that Appellants cannot be bound by Civil Action 270-94 because they were not parties to the action. In the event that Appellants did intend such interpretation, this argument is so wholly undeveloped and unsupported by legal authority that we decline to address it. *See Suzuky v. Gulibert*, 20 ROP 19, 23 (2012) ("Unsupported legal arguments need not be considered by the Court on appeal.").

SO ORDERED, this 11th day of January, 2024.

OLDIAIS NGIRAIKELAU
Chief Justice, presiding

FRED M. ISAACS
Associate Justice

KATHERINE A. MARAMAN
Associate Justice