

**Maria Akiyama ALDAN
vs.
Ramon KAIPAT, et al.**

**Appellate No. 83-9005
Civil Action No. 81-301
District Court NMI
Appellate Division**

Decided June 11, 1985

**Affirmed, 794 F.2d 1371
(9th Cir. 1986)**

In light of appellant's failure to prove that application of Japanese laws of intestate distribution would produce a result other than the one reached by the trial court, which applied English common law principles, appellate court will not decide issue of which laws should be applied and will not overturn decision below.

1. Appeal and Error - Standard of Review - Factual Findings

In reviewing the findings of fact of the trial court the Appellate Division of the District Court will not reverse unless the findings are "clearly erroneous."

2. Appeal and Error - Standard of Review - Factual Findings

A finding is clearly erroneous when the entire record produces the definite and firm conviction that the court below committed a mistake.

3. Appeal and Error - Standard of Review - Conflicting Evidence

In reviewing findings of fact of the trial court, the appellate court accords particular weight to the trial judge's assessment of conflicting and ambiguous evidence.

4. Administrative Law - Agency Action - Judicial Review

Administrative determination of Trust Territory Land Commission will be upheld where sufficient evidence exists in the record to support determination.

5. Appeal and Error - Standard of Review - Legal Conclusions

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IN THE DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS
APPELLATE DIVISION

MARIA AKIYAMA ALDAN,) DCA CASE NO. 83-9005
)
Plaintiff-Appellee,) CTC CASE NO. 81-301
)
v.)
)
RAMON KAIPAT, et al.,) **FILED** OPINION
) Clerk
Defendants-Appellants.) District Court

JUN 11 1985

For The Northern Mariana Islands
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BEFORE: LAURETA and SCHNACKE, District Judges, and SOLL,*
Designated Judge

SOLL, Designated Judge:

The plaintiff-appellee, Maria Akiyama Aldan (Aldan),
filed this action for ejectment. The trial court ruled in favor
of the plaintiff-appellee and the defendant-appellant, Magdalena
S. Kaipat (Kaipat), appeals. For the following reasons, this
Court affirms.

*Honorable Herbert D. Soll, Commonwealth Trial Court Associate
Judge sitting by designation pursuant to 48 U.S.C. § 1694b.

1 record produces the definite and firm conviction that the court
2 below committed a mistake. The appellate court accords particu-
3 lar weight to the trial judge's assessment of conflicting and
4 ambiguous evidence. South Seas Corp. v. Sablan, 525 F.Supp. 1033
5 (D.N.M.I. 1981).

6 Aldan produced a Certificate of Title from the Office
7 of the Registrar of the Commonwealth of the Northern Mariana
8 Islands which showed title to Lot 1916 in the heirs of Pedro
9 Akiyama. The basis of this title was a determination of the
10 Trust Territory Land Office in 1956.^{2/} Kaipat challenges this
11 determination and alleges the heirs of Vicenta Rapugao were
12 denied due process by the Trust Territory Land Office.

13 It is a general rule that administrative proceedings
14 are presumed to be valid. United States v. Roses, Inc., 706 F.2d
15 1563 (Fed.Cir. 1983). Aldan urges us to apply this principle
16 and, in conjunction with the expiration of the one year appeals
17 period, to now hold that the land title determinations of the
18 Trust Territory Land Office are good and are forever barred from
19 further attack. This we are hesitant to do. At the time of the
20 hearings in question, the United States had administered the
21 islands of the Trust Territory for less than ten years. In the

22 _____
23 ^{2/}The original determination made in 1953 stated title to Lot
24 1916 was in the heirs of Pedro Akiyama, however, since Pedro
25 Akiyama was a Japanese national title was vested in the Area
26 Property Custodian because Japanese nationals could not hold
title to land. This decision was amended in 1956 and was the
basis for this certificate.

1 60 years immediately preceding the American presence, the people
2 had lived under the administration of no fewer than three colo-
3 nial powers, the Japanese, the German and the Spanish. To
4 conclude that the local inhabitants were unfamiliar with the
5 American system of government and its administrative mechanics
6 for dispute resolution is beyond serious debate. Moreover, the
7 land title hearings were conducted in English, not the native
8 tongue of the local people. Further, there were no lawyers on
9 the islands to assist the inhabitants with their petitions or to
10 offer advice regarding appeals. Accordingly, an attractive
11 argument can be made for the adoption here of a modified presump-
12 tion of regularity regarding the validity of the proceedings at
13 issue. However, we need not undertake this task here. Even
14 assuming the hearings and the title determinations regarding Lot
15 1916 to be void, we find sufficient evidence in the record to
16 support Aldan's asserted title.

17 Vicenta Rapugao filed a claim with the Land Office in
18 1952. This is significant in two respects. First, it shows her
19 familiarity with the Trust Territory Land Office and negates any
20 contention that she was denied an opportunity to be heard by this
21 office. Second, her claim in 1952 involves only Lot 1832. There
22 is no claim for Lot 1916. This supports Aldan's position that
23 Vicenta Rapugao sold Lot 1916 in 1938 and therefore had no reason
24 to file a claim for it.

25 Aldan brought forth three witnesses who were alive at
26 the relevant time in question and who testified that through

1 conversations with different people at that time they learned
2 that Lot 1916 was owned by the Akiyamas. Also introduced was a
3 perpetual easement over Lot 1916 signed by Maria R. Akiyama in
4 1956 for the benefit of the Government of the Trust Territory. A
5 document entitled "Report of Property Owned Land" signed by
6 Vicenta Rapugao dated February 13, 1948 directed to the Civil
7 Administrator of the Trust Territory concerning Lot 1832 lists
8 Albina Reyes^{3/} as her neighbor to the west. A letter entitled
9 "Statement of the heirs of Vicenta Rapugao" dated July 15, 1955,
10 directed to the Land Title officer, states in pertinent part:

11 On or about the year 1938 Vicenta sold
12 1/2 of said lot [1832] to Maria Reyes
13 Akiyama, now deceased. The heirs of said
14 Maria Reyes Akiyama were occupying the
15 western portion of said lot which is their
16 property... Our mother submitted her claim
17 in 1945 for the eastern portion of Lot 1832
18 only. (Defendant's exhibit C).

16 [4] In conclusion, the evidence presented supports the
17 trial court's finding that Vicenta Rapugao conveyed Lot 1916 to
18 Pedro Akiyama and Maria Reyes Akiyama in 1938.

20 II. THE 1944 DESCENT OF LOT 1916

21 The trial court concluded that Lot 1916 descended to
22 the heirs of Pedro Akiyama when he died in 1944. Kaipat contests
23 this conclusion. Although he offers no alternative he argues
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25
26 ^{3/}Also known as Maria Abelina Reyes Akiyama.

1 that without proof of the applicable Japanese laws in 1944 Aldan
2 cannot prove that the heirs of Pedro Akiyama are rightfully
3 entitled to Lot 1916.

4 [5] Kaipat is correct in his contention that the Japanese
5 laws of descent and distribution were not introduced nor inter-
6 preted by the trial court. Instead the trial court apparently
7 resorted to principles of English common law under which property
8 undisposed of by will becomes intestate property and vests in the
9 heirs of the decedent upon his or her death. See Glaser v.
10 Chicago Title and Trust Co., 393 Ill. 447, 66 N.E.2d 410 (1946).
11 The burden here is on Kaipat, as appellant, to show error on the
12 part of the trial judge; however, Kaipat does not so prove. On
13 appeal, as well as at trial, Kaipat neither introduced evidence
14 of Japanese intestacy law nor demonstrated that the application
15 of such law would mandate a decision other than that reached by
16 the trial court. Of course, his failure to make such a showing
17 is not surprising. This Court takes notice of the fact that the
18 island of Saipan was under siege during 1944.^{4/} It would be a
19 monumental task for any court to determine which, if any, govern-
20 ment was in control and then to apply its laws to determine who
21 was rightfully entitled to this land. In light of the virtual
22 impossibility of such an undertaking and in view of Kaipat's
23 failure to prove that the results of such an investigation would
24 produce a decision other than that reached below, we find no
25 error.

26 ^{4/}A. Spoehr, Saipan: The Ethnology of a War Devastated Island,
pp. 91-95 (1954).

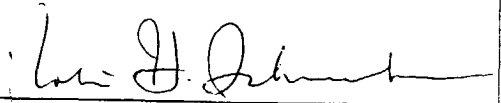
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III. CONCLUSION

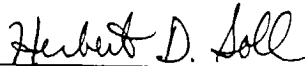
For the aforementioned reasons, the decision of the trial court is affirmed.



JUDGE ALFRED LAURETA



JUDGE ROBERT A. SCHNACKE



JUDGE HERBERT D. SOLL