

JOSE C. MUNA, TOBIAS MUNA, et al., constituting the heirs of
VICENTE S. MUNA,

and

JOSE M. CABRERA, JUAN M. CABRERA, et. al., constituting
the heirs of ANA MUNA CABRERA,

v.

ANA M. DELEON GUERRERO, et al., constituting the heirs of
JOSEPHA DELEON GUERRERO,

and

JOAQUIN S. MUNA, Plaintiffs-Appellees

v.

NICOLAS Q. MUNA, JUAN Q. MUNA, LUISA M. CAMACHO,
VICTORIA M. BENAVENTE and IGNACIO M. TENORIO,
the heirs of JOSE D. MUNA, Defendants-Appellants

Civil Appeal No. 213

Appellate Division of the High Court

Mariana Islands District

November 30, 1978

Dispute over ownership of land. The Appellate Division of the High Court, Hefner, Associate Justice, held that trial court had correctly ruled there had been no division of land by partida and that children of titleholder by his two marriages should share in the land upon his death.

Chamorro Custom—Partida—Particular Cases

Titleholder of land did not perform a partida under Chamorro custom, designating the division of the land among his children by his first and second wives, where he at most spoke with some children of the second marriage, purportedly saying one of them would hold the land for the children of the second marriage, no meeting was held, no division was made, no children of the first marriage were advised of any division, and it was not such an important event as to settle in everyone's mind that a partida had occurred.

Counsel for Appellants: DOUGLAS F. CUSHNIE, ESQ.
Counsel for Appellees: RAMON G. VILLAGOMEZ, ESQ.

Before HEFNER, *Associate Justice*, NAKAMURA, *Associate Justice*, and GIANOTTI, *Associate Justice*

HEFNER, *Associate Justice*

The history of the land in dispute in this matter commences around 1905 when Jose D. Muna moved onto a parcel now known as Lots 506 and 543 in an area called As Perdido.

Although there is some dispute, it appears that Jose D. Muna and the children of his first marriage to Carmen Muna were involved in the clearing of the land. Carmen Muna died around 1905 and Jose D. Muna married a second time to Ana Q. Manibusan Muna in 1906.

Jose D. Muna had four children by his first wife and six children by his second wife.

It appears that the land was used by Jose Muna and the children of his first and second marriages for a number of years after 1906.

In any event, Jose D. Muna died in 1950 still holding title to the land in question. In 1952, two Determinations of Ownership were issued by the government land office finding that for both lots the property was owned by "the heirs of Jose Muna Duenas, represented by Nicolas Q. Muna." Nicolas is a son of Jose Muna by his second wife.

For twenty-four years thereafter all was peaceful and quiet. This tranquility was ended when the Micronesian Claims Commission made an award for damages sustained to the property during the Second World War. In the typical fashion of the Commission, the award was granted to "Nicolas Q. Muna for the benefit of the heirs of Jose Duenas Muna."

The issue as to who were the heirs of Jose Duenas Muna was left for the Trial Court to determine. The appellees are the grandchildren of Jose Muna and his first wife. The appellants are the children of the second wife.

The Trial Court found that the children and grandchildren of Jose Muna and both of his wives were the heirs of Jose Muna.

The appellants assert that the appellees are not heirs since Jose Muna performed a partida prior to his death and only the children of his second wife received the property in As Perdido. The Trial Court, though not specifically stating no partida took place, did state that “. . . after consideration of all testimony . . . that under Chamorro custom, as it relates to this case, the children of both the first and the second marriage are entitled to share equally in all the lands of Jose D. Muna and proceeds of the Micronesian Claims Commission.” Therefore, the Trial Court rejected the partida theory proposed by appellants.

A review of the pertinent portions of the transcript and exhibits demonstrates that the Trial Court committed no error in finding a partida did not occur.

The case widely cited to explain the Chamorro custom of partida is *Blas v. Blas*, 3 T.T.R. 99 (Tr. Div. 1966).

The Court in *Blas* set forth various factors to consider and to assist the Court in finding whether a partida took place. The father and owner of the land should call his family together some time before his death and designate a division of all the family lands, including those brought in by the wife, among the children. Presumably the consent of the wife and children is given, but it is noted that the power of parental respect is such that little dispute is usually raised with the decision of the father.

The occasion is a serious and important matter and all concerned are expected to take careful note of the division and designations. Usually a partida is done when the father is retiring or shortly before his death.

It is noted in *Blas*, that the Trial Judge indicated that the above activities are ideally done. Therefore the activities and requirements for a partida are flexible and in essence, are decided on a case by case basis.

In this matter, it is clear that Jose Muna, at most, spoke with some of the children of the second marriage when he

purportedly said that Nicolas would hold the land for the children of the second marriage. A review of the portion of the transcript designated by appellant to support a partida falls far short of even a liberal reading of *Blas*. No meeting was held, no division was made, no children from the first marriage were ever advised of any division and certainly it was not such an important event to settle in everyone's mind that a partida had occurred. In short, the evidence fell far short of establishing a partida and the Trial Court correctly rejected the partida theory.

It is also noted that two years after Jose Muna died, the two land determinations were made which held that the land was owned by the heirs of Jose Muna, without distinguishing the children of the first and second marriages.

Appellants argue that Exhibit 3 leads to the conclusion that the determinations of ownership were issued with the distinction in mind. However, a review of Plaintiff's Exhibit 3, a handwritten statement in the land file, is indefinite, uncertain and certainly did not convince the Trial Court of the importance that appellant argues.

Notwithstanding any partida, the appellants assert that the appellees are barred by laches and the statute of limitations.

Once again, the Trial Court weighed the evidence in this regard and found for the appellees. The Trial Court's determination was not clearly erroneous, 6 TTC 355, and this Court shall not reweigh the evidence.

Thus the title to the land and the Claims Commission award to the heirs of Jose Muna are to all of his children and no distinction exists. Once it is determined that such is the case, appellants' argument as to reviewability of Micronesian Claims Commission decisions is of no consequence in resolving this matter.

Accordingly, the Judgment of the Trial Court is AFFIRMED.