

However, we hold that the appellant failed to proceed properly by way of an appeal from the ruling of the War Claims Commission and therefore the judgment of the trial court is AFFIRMED.

FRANCISCO M. DIAZ, et al., Plaintiffs-Appellees

v.

RAMON L. G. DIAZ, Defendant-Appellant

Civil Appeal No. 274

Appellate Division of the High Court

Northern Mariana Islands District

October 29, 1982

Appeal from a judgment entered by the Trial Division upholding a decision of the Micronesian Claims Commission. The Appellate Division of the High Court, Nakamura, Associate Justice, held that trial court erred in holding that awards of the Claims Commission are absolutely final and not subject to review, and therefore case was remanded for further hearing.

1. Administrative Law—Judicial Review—Conclusiveness of Decision

Courts of the Trust Territory are not precluded by the finality provision of the Micronesian Claims Act from making determinations as to the rightful recipients of the Commission's awards.

2. Administrative Law—Judicial Review—Conclusiveness of Decision

Trial court erred, on review of a decision of the Micronesian Claims Commission, in holding that such an award is final and not subject to determination by the courts as to the rightful recipients of such awards.

3. Estoppel—Generally

Question of the existence of an estoppel is a question to be settled by the trier of the facts, the trial court, where there is a dispute as to the facts involving estoppel.

4. Estoppel—Generally

The determination of the trier of fact of estoppel is binding on appeal **unless the contrary conclusion** is the only one that can reasonably be drawn from the evidence.

5. Appeal and Error—Scope of Review—Clearly Erroneous

Findings of the trial court are not to be set aside on appeal unless there is manifest error or the findings are clearly erroneous.

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6. Appeal and Error—Scope of Review—Clearly Erroneous

Where trial court's findings regarding estoppel were not clearly erroneous, and a contrary conclusion was not the only one that could be reasonably drawn from the evidence, on appeal the findings were sustained.

Counsel for Appellant:

DOUGLAS F. CUSHNIE, ESQ.

Counsel for Appellees:

ROBERT MERLE COWAN, ESQ., and
RAMON VILLAGOMEZ, ESQ.

Before BURNETT, *Chief Justice*, NAKAMURA, *Associate Justice*, GIANOTTI, *Associate Justice*

NAKAMURA, *Associate Justice*

This is an appeal from the judgment entered by the Trial Division of the High Court in Civil Action No. 32-77, Mariana Islands District, in favor of the plaintiffs-appellees. War Claims Commission Decision No. 7393 and the distribution made by the defendant-appellant thereunder is the basis for this controversy.

Under the Micronesian Claims Act of 1971, Micronesian Claims Commission Decision No. 7393 (hereinafter referred to as Decision No. 7393) awarded, in part, \$199,493.00 to the appellant, Roman Diaz, as representative of the heirs of Maria A. Diaz. The plaintiffs' position at trial was that they are heirs of Maria A. Diaz and are entitled to their share per stirpes. The defendant claimed that the plaintiffs were not entitled to any of the award arising under Decision No. 7393 for two reasons. One, Decision No. 7393 did not take into account events that occurred prior to the Decision, specifically, a *partida* that allegedly occurred sometime in the 1930's. Secondly, the plaintiffs should have been estopped from claiming the award as they waived their rights to any portion of the award.

Basically, this appeal concerns itself with the trial court's conclusion not to go behind the decision of the War

Claims Commission in Decision No. 7393. The appellant alleges that had the trial court looked behind the award, it would have found that a *partida* took place prior to Decision No. 7393 and as a result thereof, the appellees are not entitled to any portion of the award granted in Decision No. 7393.

It is clear from the record that the trial court did not reach the issue of whether a *partida* actually occurred. The trial court stated that:

The defendant also has advanced the proposition that a *partida* occurred sometime in the late 1930's when Maria A. Diaz supposedly divided up the land among her children This Court has held on numerous occasions that it will not go behind the Micronesian Claims Commission award because of 50 U.S.C. § 2020 In view of the Court's finding that it does not have authority to change the Claims Commission Decision, it is not necessary to reach the issue of whether a *partida* occurred.

In arguing that the trial court erred when it refused to determine the issue of a *partida*, the appellant bases his argument solely on our decision in *Ngikleb v. Ngirakelbid* (Civ. App. No. 184, Jan. 29, 1979).

In *Ngikleb*, the trial court ruled that the war claims decision in that case as to the proper owner of the land in question was wrong. Notwithstanding this finding, the trial court denied relief to the plaintiff (the rightful owner of the land), holding that awards of the Micronesian Claims Commission for damages are final.

The trial court in *Ngikleb*, as well as the trial court in the instant case, base their opinions on Title II of the Micronesian Claims Act of 1971, 50 U.S.C.A. § 2020. The provision in controversy states in relevant part:

. . . Provided further, That any such settlement made by such Commission and any such payments made by the Secretary under the authority of title I or title II shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary and not subject to review.

In *Ngikleb*, we interpreted the above section to mean that this finality provision of the statute was only intended to preclude appeals from final decisions of the Commission in granting or denying claims and in the amounts awarded. We stated that “To . . . deny appellant a forum of review wherein he does not question the payment or settlement as determined by the Commission but only the entitlement to the payment or settlement as between the parties herein, . . . would be inconsistent with the stated legislative intent and the ends of justice.”

[1, 2] We find that the facts of the present case are indeed similar to the facts in *Ngikleb*, and that therefore, *Ngikleb* is controlling. The appellant herein does not question the payment or settlement as determined by the Commission but only the entitlement to the payment of settlement as between the parties to this lawsuit. In conclusion, we adhere to our holding in *Ngikleb* that the courts of the Trust Territory are not precluded by the finality provision of the Micronesian Claims Act from making determinations as to the rightful recipients of the Commission’s awards. Therefore, we hold that the trial court erred when it refused to look behind the War Claims Commission Decision in No. 7393.

The second argument raised by the appellant is that the appellees waived their rights to any payment and are estopped from claiming any portion of the award granted in Decision No. 7393. Therefore, the appellant argues, the trial court erred in rejecting his claim of estoppel against the appellees.

[3-5] “It is a firmly settled principle that the question of the existence of an estoppel is a question to be settled by the triers of the facts—that is, . . . the trial court . . . where there is a dispute as to the facts involving estoppel.” 28 Am. Jur. 2d Estoppel and Waiver § 149. And it has also

been stated that the determination of the trier of fact of estoppel is binding on appeal unless the contrary conclusion is the only one that can reasonably be drawn from the evidence. *Mehl v. People Ex. Rel. Department of Public Works*, 532 P.2d 489, 119 Cal. Rptr. 625 (1975). Furthermore, trial court findings are not to be set aside unless there is manifest error or the findings are clearly erroneous. *Trust Territory v. Lopez*, 7 T.T.R. 449 (App. Div. 1976).

[6] It is apparent from the record that the trial court's findings regarding estoppel are not clearly erroneous or that a contrary conclusion is the only one that can reasonably be drawn from the evidence. Therefore, we sustain the trial court's findings regarding the issue of estoppel.

Accordingly, the trial court's conclusion regarding the finality of Micronesian Claims Commission awards is reversed and the case is remanded for further hearing on the issue of a *partida* consistent with this opinion.

REVERSED AND REMANDED.

KADARIHNA SULDAN, Plaintiff-Appellant

v.

TOBIAS ETNOLD, Defendant-Appellee

Civil Appeal No. 281

Appellate Division of the High Court

Ponape District

October 29, 1982

Appeal. The Appellate Division of the High Court, Nakamura, Associate Justice, remanded for a new trial where transcript of trial was unavailable.

Appeal and Error—Record on Review—Adequacy

On appeal of trial court judgment, where court reporter could not prepare the transcript of the trial, the case was remanded for a new trial.