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RPPL No. 4-43

1FOURTH OLBIL ERA KELULAU

Thirteenth Regular Session, Jan. 1996 RPPL NO. 4-43
(Intro. as H.B. 4-236-13,
HD5, SD3, CD1)

AN ACT

To establish the Land Claims Reorganization Act; to repeal RPPL No. 4-41; to repeal Title 35, Chapter 11 of the PNC; to amend certain sections of Titles 4 and 11 of the PNC; to amend RPPL No. 4-36; to appropriate funds for the state of Angaur; and for other purposes.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIL ERA KELULAU DO ENACT AS
FOLLOWS:

Section 1. Title. This Act shall be known and may be cited as the "Land Claims Reorganization Act of 1996."

Section 2. Purpose. The primary purpose of this Act is to proceed on a systematic basis to accomplish, prior to December 31, 2000, the determination of ownership of all land in the Republic, and to provide for the return, to the original owners or their heirs or assigns, of land which became public land as a result of the acquisition by the previous occupying powers or their nationals through force, coercion, fraud or without just compensation or adequate consideration.

Section 3. Definitions. As used in this Act:

"Registration Officer" means a Land Court Registration Officer.

"Senior Judge" means the Senior Judge of the Land Court.

"Senior Registration Officer" means the Senior Land Court Registration Officer.

Section 4. Land Court responsibilities; Supreme Court.

(a) The Land Court, within a reasonable period of time not to extend beyond December 31, 2000, shall proceed on a systematic basis to hold hearings and make determinations with respect to the ownership of all land within the Republic.

(b) The Land Court shall award ownership of public land, or land claimed as public land, to any citizen or citizens of the Republic who prove (1) that the land became part of the public land, or became claimed as part of the public land, as a result of the acquisition by previous occupying powers or their nationals prior to January 1, 1981, through force, coercion, fraud, or without just compensation or adequate consideration and (2) that prior to that acquisition the land was owned by the citizen or citizens or that the citizen or citizens are the proper heirs to the land. Except in cases where claims of Palauan citizens, clans or lineages prevailed over the claim of the Trust Territory Government, its Land Title Officer and all of its political subdivisions, the statute of limitations,

laches or stale demand, waiver, res judicata or collateral estoppel as to matters decided before January 1, 1981, and adverse possession, may not be asserted against and shall not apply to claims for public land by citizens of the Republic. The record of proceedings of the District Land Title Officer or the Palau Land Commission may be introduced as evidence in land ownership proceedings before the Land Court. The record shall be given such weight as the Land Court or Trial Division, in the exercise of its discretion, deems appropriate. All claims for public land by citizens of the Republic must have been filed on or before January 1, 1989. All determinations of ownership pursuant to this section shall be made prior to December 31, 2000.

(c) Where the only claimants to land which has already been surveyed have resolved between themselves their claims, and proper notice has been given as provided in Section 8, the Land Court shall promptly issue a determination of ownership to those claimants in accordance with the agreement(s) between them. The Land Court shall give priority to matters in which the claimants have resolved their claims between themselves.

(d) If the Land Court deems that consideration of a disputed claim will seriously interfere with accomplishment of the purposes of this Act, it may directly refer the claim to the Trial Division of the Supreme Court without making any determination thereon. The Trial Division shall then proceed to make a determination on the claim. The Trial Division, after the time for appeal from its decision has expired without any notice of appeal having been filed or after an appeal duly taken has been determined, shall certify its decision, as modified by the Appellate Division if that has happened, to the Land Court. The Land Court shall then issue a certificate of title based on the Trial Division's certified decision as if based on a determination of the Land Court as provided in this Act.

Section 5. Land registration employees.

(a) The Land Court shall hire a Senior Registration Officer and other Registration Officers and staff as may be necessary to accomplish the purposes of this Act. Those land registration officers and civil service employees who worked for the Land Claims Hearing Office on February 14, 1996 shall be transferred to and employed by the Land Court on the same terms and conditions as they had with the Land Claims Hearings Office; these officers and employees shall, for the purpose of receiving uninterrupted compensation, be deemed employed by the Land Court effective February 15, 1996. Within 30 days of the effective date of this Act, the Chief Justice of the Supreme Court shall appoint a Senior Land Court Registration Officer from among those hired from the Land Claims Hearing Office. When a Senior Judge of the Land Court is appointed, the Senior Judge shall have the option of appointing a new Senior Registration officer.

(b) All employees hired by the Land Court, including those referred to in subsection (a), shall be subject to the employment rules of the National Judiciary.

(c) The appointment of each Land Claims Hearing officer is hereby vacated effective 90 days after the effective date of this Act, or upon appointment by the President of Land Court Judges as provided by Title 4 of the Palau National Code, as amended by this Act, whichever occurs first. The Judicial Nominating commission shall submit a list of potential Land Court Judge appointees within 60 days of the effective date of this Act.

Section 6. Survey and establishment of boundaries in designated registration areas.

(a) The Director of Lands and Surveys shall assign a team or teams of land surveyors to perform surveys as requested by the Senior Registration Officer.

(b) The Senior Registration Officer may hire private registered surveyors, with the approval of the Senior Land Court Judge.

Section 7. Mandatory Monumentation and Mediation Session.

(a) The Land Court shall schedule a Monumentation and Mediation Session to occur not less than 45 days before the date of each Land Court hearing, unless the boundaries of the property at issue have already been resolved and monumented. All claimants shall meet at a location near or at the site of the property, as determined by the Senior Registration Officer. Other interested persons, including adjacent landowners, may attend the meeting. The Registration Officers shall encourage claimants to discuss their claims among themselves and to attempt to resolve their disputes informally. After this meeting, the Registration Officers shall assist claimants in monumenting their claims.

(b) Registration Officers shall use their best efforts to consult with the traditional leaders from the area where land to be monumented is located. Registration Officers shall encourage these traditional leaders to attend Monumentation and Mediation Sessions and to assist claimants in resolving their claims.

(c) Any claimant who fails to personally attend or send an authorized representative to a scheduled Monumentation and Mediation Session without reasonable cause shall pay a penalty of \$250 within 10 calendar days of the scheduled session. This penalty shall be paid to the Clerk of Court. The Land Court shall thereafter promptly schedule another Monumentation and Mediation Session. A claimant who fails for a second time to personally attend or send an authorized representative to a scheduled Monumentation and Mediation Session may not contest the boundary determinations and monumentation resulting from the session.

Section 8. Notice of hearing and Mandatory Monumentation and Mediation Session; filing of claims.

(a) After the Land Court decides that ownership determinations should be made for a particular parcel of land, the Land Court shall set a date for a hearing for all claims regarding that parcel. All claims shall be filed with the Land Court no later than 60 days prior to the date set for the hearing. Any claim not timely filed shall be forfeited.

(b) Before the Land Court commences a hearing with respect to any claim, notice containing a description of the claim and the date, time, and place of the hearing and the Mandatory Monumentation and Mediation Session shall be given by the Land Court at least 120 days in advance of the hearing and a second and final notice shall be given at least 80 days in advance of the hearing as follows:

(1) By posting notice on the land involved in both English and the principal local language of the state in which the land is situated;

(2) By posting notice, in the languages specified in subsection (b)(1), at the state office and the principal meeting place in the village in which or nearest to which the land is situated;

(3) By serving notice upon all persons personally known to the Registration Officer to claim an interest in the land by:

(A) service in the same manner as a civil summons;

or

(B) registered air mail, postage prepaid, to the last known address, if outside the Republic; or

(C) in the case of a clan or lineage, by hand delivery to the senior male title holder, if any, and the senior female title holder, if any; however, if the Registration officer cannot with reasonable diligence locate the senior male or female title holder, then to such representative or representatives of the clan or lineage as the Senior Registration officer shall designate;

(4) By posting notice at the Post Office and the Office of the Clerk of the Supreme Court in Koror;

(5) By placing an advertisement on a local Koror radio station;

(6) By mailing notice to each Palau consular office;

(7) By delivering notice to the Association of State Governors of Palau; and

(8) By public notice by other means as the Land Court, in consultation with the Senior Registration Officer, may deem advisable.

(c) The notice provided for in subsection (b) shall clearly explain the following in both Palauan and English:

(1) The date, time and place of the hearing; and that all claimants must file their claims with the Land Court not later than 60 days prior to the date of the hearing, and that if a claimant fails to file a claim, he or she will forfeit that claim; (2) The date of the Mandatory Monumentation and Mediation Session, that attendance by claimants or their representatives is mandatory, and the penalties for failure to attend;

(3) The procedure for filing a claim;

(4) The location and telephone number (if any) of the nearest Registration Officer and the Land Court; and

(5) That the Registration Officers will provide assistance in preparing a written claim without charge to any interested person.

(d) The governor of each state shall work closely with the Land Court to facilitate the giving of notice to interested parties.

(e) In the event that the hearing cannot be conducted as originally scheduled, the Land Court may postpone the hearing for a reasonable period of time and shall provide written notification of the postponement to all persons who timely filed a written claim. Such postponement will not extend the time for the filing of written claims for the parcel at issue.

Section 9. Conduct of Land Court hearings.

(a) Within 30 days of the effective date of this Act, the Land Court, in consultation with the Chief Justice of the Supreme Court, shall promulgate special procedural and evidentiary rules designed to allow claimants to represent themselves without the aid of legal counsel, and so that proceedings may be conducted in Palauan.

(b) 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 the Land Claims Hearing Office, the former Land Commission, or by a court of competent jurisdiction. The Land Court shall, for purposes of this Act, accept such prior determinations as binding on such parties and their successors and assigns without further evidence than the judgment or determination of ownership.

(c) All Land Court hearings shall be public. All claims shall be heard by one judge of the Land Court; however, at the discretion of the Senior Judge, claims may be heard by a threejudge panel. To the extent practicable, Land Court matters shall be heard, in whole or in part, in the state in which the land involved lies and in the village in which, or near which, the land lies. Land Court proceedings shall be taken down by a stenographic reporter or recorded by suitable sound recording equipment. Hearings may be conducted in either Palauan or English, at the discretion of the Land Court judge(s) hearing the matter. The Land Court may order that an interpreter be provided for non-English or non-Palauan speaking persons. Records shall be kept in both Palauan and English.

Section 10. Matters involving minors or incompetents. If the Land Court or the Supreme Court, on application or of its own motion, finds that any party in interest is a minor or incompetent, the Land Court or the Supreme Court, as the case may be, shall appoint one person to act as guardian at law for the minor or incompetent for the matter, unless the minor or incompetent is already represented by a person appointed by competent authority. A properly appointed guardian at law shall have full authority and power to act for the minor or incompetent in all matters in connection with his or her interest in the land; however, a guardian may not encumber or in any way alienate any land under his guardianship except by an order of the Trial Division of the Supreme Court.

Section 11. Notice of determination of ownership. Within 20 business days following the conclusion of a hearing, the Land Court shall issue a determination of ownership or shall issue a written statement explaining why the determination cannot be made within such time. The Land Court shall promptly serve a copy of the proceedings summary, findings of facts, and determination(s) made, on all parties of record at such address within the Republic as each party shall register at the hearing.

Section 12. Appeal from determination of the Land Court.

A determination of ownership by the Land Court shall be subject to appeal by any party aggrieved thereby directly to the Appellate Division of the Supreme Court in the manner provided in the Rules of Appellate Procedure.

Section 13. Issuance of certificate of title.

(a) Not more than 30 days after the later of (1) the completion of a final cadastral map by the Bureau of Lands and Surveys or (2) the expiration of the time for appeal from a determination of ownership by the Land Court without any notice of appeal having been filed or after the determination of an appeal, the Land Court shall issue a certificate of title setting forth the names of all persons or groups of persons holding interest in the land pursuant to the determination either originally made or as modified by the Appellate Division of the Supreme Court, as the case may be. Such certificate of title shall be conclusive upon all persons so long as notice was given as provided in Section 8, and shall be prima facie evidence of ownership subject to any leases or use rights of less than one year, which need not be stated in the certificate.