



FUAMETE

Appeal

11-09

Kneubuhl v. Puletu

02-2008

IN THE HIGH COURT OF AMERICAN SAMOA

APPELLATE DIVISION

PULETU D. KOKO, On Behalf Of
Himself And The PULETU FAMILY,
TALAMATAVAO MORU MANE
TUIAGAMOA, and Intervenors
VAILU'U MANAIMA LANG, On Behalf
Of Himself And The VAILUU
FAMILY,

Appellants,

v.

DOUGLAS CRANE KNEUBUHL a.k.a.
MIKE KNEUBUHL, IULI A. GODINET,
MOLIO'O FRANK GODINET, KISHON
PRITCHARD LUA, FA'ATAMALI'I
PRITCHARD, On Behalf Of Herself
And As Administrator Of The
ESTATE OF FUIAVAILI'ILI WILLIAM
PRITCHARD, ELIONAI PRITCHARD,
AZIZA PRITCHARD, BENIAH
PRITCHARD, EL SHADDAI
PRITCHARD, SHILOH PRITCHARD,
and SHECHINA PRITCHARD,

Appellees.

) AP No. 11-09

HIGH COURT OF AMERICAN SAMOA
Clerk's Office

File Time: 7:54 AM

10/17/14 JF
Terry S. Fielding
CLERK OF COURTS

) OPINION AND ORDER

Before WARD, Associate Justice; PATEA,* Acting Associate Justice;
and FA'AMAUSILI, Associate Judge.

Counsel: For Appellants, Marie A. Ala'ilima.
For Appellees Lua and Pritchards and Estate of
Fuiavaili'ili Pritchard, Charles V. Ala'ilima.
For Appellees Douglas C. Kneubuhl and Iuli A. Godinet
and Molio'o F. Godinet, Roy J.D. Hall, Jr.

Per curiam.

*The Honorable Elvis R. Pila Patea, Judge, District Court of American Samoa,
serving by designation of the Secretary of the Interior.

Before the Court is Appellants' appeal from a June 10, 2009 opinion and order in five consolidated Land and Titles Division cases, *Kneubuhl v. Puletu*, LT Nos. 23-03, 26-03, 40-04, 23-04, & 19-06, slip op. (Land & Titles Div. June 10, 2009), and a November 24, 2009 order denying a motion for reconsideration or a new trial. *Kneubuhl v. Puletu*, LT Nos. 23-03, 26-03, 40-04, 23-04, & 19-06, slip op. (Land & Titles Div. Nov. 24, 2009). For the reasons set forth below, we affirm the trial court's decision.

BACKGROUND

This consolidated action arose out of disputed activities on a substantial portion of land in the village of Leone generally known as "Fuamete." The disputes spiraled into a complicated mix of competing ownership claims over distinct areas of Fuamete.

On November 30, 2011, we denied Appellants' motion to postpone the appellate proceedings pending final judgment of outstanding issues still before the trial court. However, while still maintaining appellate jurisdiction, we ordered a limited remand to the Land and Titles Division to determine whether the Intervenors presented their grievances to the Office of Samoan Affairs before intervening, whether the Office of Samoan Affairs issued a CID for their grievances, and whether the Intervenors' interests and claims are so interrelated with Appellants'

interests and claims that they are, in all practicality, indistinguishable under A.S.C.A. § 43.0302. *Puletu v. Kneubuhl*, AP 11-09, slip op. (App. Div. Nov. 30, 2011) (order denying motion to postpone pending final judgment of outstanding issues).

On August 1, 2012, the Land and Titles Division issued an order stating its findings and conclusions on these issues. *Kneubuhl v. Puletu*, LT Nos. 23-03, 26-03, 40-04, 23-04, & 19-06, slip op. (Land & Titles Div. Aug. 1, 2012) (order stating findings and conclusions on remand issues and directing transmittal to the App. Div.). On May 29, 2014, we ordered the parties to submit supplemental briefing on the trial court's order. *Puletu v. Kneubuhl*, AP 11-09, slip op. (App. Div. June 17, 2014) (memorandum order).

On August 28, 2014, we heard final oral arguments on all issues raised on appeal and took the submitted matter under advisement. Our opinion and order are discussed below.

STANDARD OF REVIEW

Questions of law are reviewed *de novo* by the appellate division. *Roman Catholic Diocese of Samoa Pago Pago v. Avegalio*, 20 A.S.R.2d 70, 73 (App. Div. 1992). Findings of fact are reviewed under the clearly erroneous standard. *Id.*; A.S.C.A. § 43.0801(b). A finding of fact is erroneous when "the entire record produces the definite and firm conviction that the

court below committed a mistake, according particular weight to the trial judge's assessment of conflicting and ambiguous facts." *TCW Special Credits v. K/V Kassandra Z*, 7 A.S.R.3d 3, 7 (App. Div. 2003) (internal quotations omitted). "[A]t the trial level, the judge may use all of his senses in the evaluation of a witness's testimony." *Nat'l Pac. Ins. Co. v. Oto*, 3 A.S.R.2d 94, 95 (App. Div. 1986). The trial court is free to believe, or disbelieve, the testimony of witnesses. *Afatia v. Aufata*, 3 A.S.R.2d 112, 112 (App. Div. 1986). Where each party has presented evidence to the trial court that supports his or her claim to land ownership, the trial division's findings will not be disturbed on appeal unless clearly erroneous. A.S.C.A. § 43.0801(b); *Suapilimai v. Faleafine*, 9 A.S.R.2d 16, 19 (App. Div. 1988). The Appellate Division does not review factual matters *de novo*. *Afoa v. Asi*, 20 A.S.R.2d 81, 83 (App. Div. 1991). The test for clear error is whether there is substantial evidence on the record to support the Land and Titles Division's findings - not whether a dissatisfied litigant himself presented substantial evidence. *Id.* (citing *Moea'i v. Ala'ia*, 12 A.S.R.2d 91 (App. Div. 1991)).

DISCUSSION

I. Jurisdiction of the Land and Titles Division

We first review whether the Land and Titles Division had jurisdiction over these controversies. In its August 1, 2012

order, the trial court found that the parties, or those with interests indistinguishable from the parties, had an adequate opportunity to pursue resolution of this dispute before the Office of Samoan Affairs but instead chose to litigate. We agree. Upon review of the entire record in these cases, the record strongly supports compliance with A.S.C.A. § 43.0302.

II. Substantive Issues Raised on Appeal

As to the substantive issues raised on appeal, they may be briefly summarized as follows:

1. Whether the trial court erred by finding that the heirs of the children of Alfred and Lemusu Pritchard could legally act on their own behalf and on behalf of other heirs with respect to those land parcels claimed by the heirs as co-owners.

2. Whether the trial court erred by finding that Appellants did not have a claim to Fuamete by adverse possession.

3. Whether the trial court erred in invalidating a 1991 lease of a portion of the land Fuamete executed by Vailuu Failautusi Avegalio.

4. Whether the trial court erred by finding that Appellants failed to acquire ownership of a parcel of the land Fuamete by adverse possession and erred in its division of such property among the Pritchard heirs.

5. Whether there was sufficient evidence for the trial court to find one or more of the Appellants altered the course of, or filled, a stream on the land Fuamete and had tacitly acknowledged the ownership of that parcel by the Pritchard heirs.

6. Whether there was sufficient evidence to support the trial court's award of partial attorney fees to the Appellees and certain sanctions against one or more of the Appellants.

7. Whether generally the trial courts' findings of fact were insufficiently supported by the evidence upon viewing the record as a whole.

III. Discussion of Substantive Issues

The common theme in each of the above summarized issues raised by Appellants is Appellants' assertion that the evidence presented at trial favored their claims of ownership of the various parcels of the land Fuamete, rather than those of the Appellees. As we have set forth in our Standard of Review, *supra*, and as required by statute, A.S.C.A. § 43.0801(b), this Court may not set aside the factual findings of the trial court unless such findings are clearly erroneous.

The trial court, in its 56-page opinion and order in these consolidated matters, clearly assessed the conflicting and ambiguous facts that the parties presented. *Kneubuhl v. Puletu*, LT Nos. 23-03, 26-03, 40-04, 23-04, & 19-06, slip op. (Land &

Titles Div. June 10, 2009). Upon observing the numerous witnesses and evaluating their respective testimonies, the trial court decided who to believe and disbelieve. We have carefully reviewed the record as a whole, and have found sufficient evidence to support the trial court's findings of fact in each of the issues raised on appeal. We will not engage in any further analysis of Appellants' assertions of reversible factual finding errors in these cases at trial.

With respect to those issues raised on appeal that also challenge the trial court's application of law to its findings of fact (i.e. issues 1, 3, and 6), Appellants have failed to demonstrate any reversible errors in the trial court's decisions.

A. Issue 1

It has been long established that in American Samoa, co-owners of non-communal land holding an undivided interest are tenants in common. See *Willis v. Willis*, 2 A.S.R. 276, 284 (Trial Div. 1947). A tenant in common "is equally entitled to the use and possession of the common property" and "has an interest in the possession of every part of the property, and from the nature of the estate must necessarily be in possession of the whole property." *Yuhashi v. Malaga*, 3 A.S.R. 322, 330 (Trial Div. 1958) (quoting 86 Corpus Juris Secundum 383).

Because the heirs of the children of Alfred and Lemusu Pritchard hold portions of Fuamete as tenants in common, they have a common interest in that property. It was not reversible error, therefore, for the trial court to conclude that the heirs of the children of Alfred and Lemusu Pritchard could legally act on their own behalf and on behalf of one another regarding those land parcels they claimed as co-owners.

B. Issue 3

No lease exists when the individuals who signed the lease documents did not have authority to do so. *Fagasoia v. Fanene*, 17 A.S.R.2d 91, 94 (Land & Titles Div. 1990). The Land and Titles division found that Appellant Vailu'u Failautusi Avagalio did not own the portions of Fuamete he purportedly leased to the Mane family in 1991. Having found that Vailu'u did not own the property he attempted to lease to others, the trial court's decision to invalidate the lease was in accordance with prevailing law.

C. Issue 6

The trial court may award attorney fees to the prevailing party when an opposing party has acted in bad faith, wantonly, oppressively, or when it is required by statute. *Am. Samoa Gov't v. .145 Acres*, 5 A.S.R. 3d 61, 72 (Trial Div. 2001). The Land and Titles Division imposed the payment of a portion of Appellees' attorney fees on Appellants Puletu and Mane after

finding that "Puletu and Mane deliberately and antagonistically interfered with the Pritchards' useful enjoyment of their land" by, among other things, polluting a stream in a way that caused flooding, commencing unauthorized development, and obstructing construction. *Kneubuhl v. Puletu*, LT Nos. 23-03, 26-03, 40-04, 23-04, & 19-06, slip op. at 50 (Land & Titles Div. June 10, 2009). These factual findings are not clearly erroneous, and the trial court's award of attorney's fees based on these findings does not constitute reversible error.

IV. Conclusion

We hold that the trial court acquired jurisdiction pursuant to A.S.C.A. § 43.0302 to hear and decide these cases at trial. We further hold, for reasons set forth above, that the trial court did not commit any reversible error of law or fact in its decision in these cases, as embodied in its opinion and orders dated June 10, 2009 and November 24, 2009.

ORDER

The decision of the Land and Titles Division is hereby AFFIRMED.

It is so ordered.

Dated: 10/17/14

