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BACKGROUND MATERIAL FOR SAIPAN LAND CASES PRESENTED TO

THE U. S. COURT OF CLAIMS

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Six Saipan land cases have been presented to the U. S. Court of Claims by Attorney William B. Nabors. All have some elements of similarity in that they are from the same island and all arose out of events which occurred during and shortly after the invasion of Saipan in 1944, by U. S. Military Forces. They are as follows:

Fitial vs. U. S., No. 215-68

Veronica Camacho, et al vs. U. S., No. 245-68

Huberto A. Taisakan vs. U. S., No. 246-68

Jose S. Igisair vs. U. S., No. 247-68

Pedro P. Camacho and Jose Q. Lizama vs. U. S., No. 248-68

Ana C. Castro et al vs. U. S., No. 249-68

In order to fully understand the six cases indicated above it is necessary to go back several years in the history of Saipan. The six land problems represented in the cases presented to the U. S. Court of Claims are only a few of some 500 similar cases which exist on Saipan today. The land problem cases are in addition to the routine work of surveying, land registration, administration of a homestead program and leasing of public land.

THE SPANISH ADMINISTRATION

The Spanish Administration of the Marianas which followed the discovery of the islands by Magellan was unable to cope with the Chamorros of the islands north of Guam. In order to bring the local people under their control, the Spanish moved all of the people of the Marianas to Guam with the exception of a few who hid out on Rota. The move to Guam was completed shortly before 1700. It has been estimated the Chamorro population of the Marianas was between 40,000 and 50,000 in 1668.

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Less than a half-century later the figure had fallen to slightly over 3,500. The reduction in population reduced pressure on Guam's land resources and for another century no attempt was made to return people to the islands north of Guam. Except for a few explorers who may have called at Saipan after 1700, the island was unoccupied until 1815. In that year a destructive typhoon struck Lamotrek, an atoll in the eastern part of the present Yap District, and a group of people from Lamotrek and neighboring atolls got permission from the Spanish Governor of Guam to relocate on Saipan. In return they were to kill wild cattle and pigs on Tinian and ship meat to Guam. They settled in the area of Saipan which later became the village of Garapan. Chamorros did not return to Saipan as permanent residents until well after the Carolinians were settled at Garapan. It is reported that only nine Chamorros were on the island in 1865. In 1886 the population was reported as 849, two-thirds of whom were Carolinians and the remainder Chamorros.

THE GERMANS IN SAIPAN

As a result of events which followed the Spanish-American war, the United States kept Guam but Spain was allowed to sell her remaining interests in Micronesia to Germany. Where Spain had almost no interest in the Marianas after the days of the Spanish Galleons which sometimes used Guam as a watering station for ships enroute from Mexico to Manila, Germany took over the administration of Micronesia with great interest and thought of it as a vital part of her Pacific colonies. They immediately started to develop the agricultural potential of Saipan, giving particular attention to the copra industry. The Germans reviewed the permits the Spanish had given for the occupation and use of land on Saipan. These were primarily aimed to develop the cattle industry. The Germans revoked the Spanish permits and followed a policy of "use it or lose it". Land that was in actual use was surveyed and a deed in fee simple issued to the occupant.

Land that was not in use was considered as being a part of the public domain. If Saipan settlers demonstrated they could use more land, they were given homesteads from the public domain and if they complied with the requirements they were given deeds in fee simple.

The excess of excellent land in the public domain on Saipan was used by the Germans to induce Chamorros and Carolinians of Guam to move to Saipan. Shortly after they took over the administration of Saipan the Germans moved some 200 Carolinians from Tinian to the island.

They were located in the area now known as Tanapag. The action taken by the German Administration to issue titles in fee simple was a radical departure from the customs followed by the Carolinians but well in line with the land tenure system the Chamorros had developed during their association with the Spanish Administration on Guam. It might be noted the Chamorros who moved from Guam to Saipan had no known connections with the Chamorros who were moved from Saipan to Guam before 1700.

The ancient Chamorros are believed to have followed a matrilineal system of inheritance of land rights. Inheritance of land rights before contact with the Spanish appears to have been through the mother's brother. During the period they were under complete domination by the Spanish the matrilineal land tenure system gave way to a system of individual ownership. If a Chamorro woman owns land in her own right it does not become the property of her husband when she marries. It is common for both husband and wife to make a division of their land before death. This is called the "partido". It is seldom in writing and if not made before death occurs, the heirs make the division after the death of the owners.

The Carolinians of Saipan have continued to operate within their traditional land tenure pattern. Farm land and town lots and buildings are owned collectively by the female members of the matrilineal lineages.

3(a)

Lineage land is not supposed to be divided when members of a lineage die. The Germans insisted on issuing land titles to one person. Accordingly, the titles issued to Carolinians for the land they were using at the time the Germans took over administration of Saipan were issued in the name of the eldest female member of the lineage in most cases. The homesteading program introduced by the Germans resulted in some men receiving land titles. In such cases the man passed his land to his daughters who subsequently founded a new matrilineal lineage whose lands were those passed on to the founders by the father.

Although most Saipan Carolinians follow the custom of not dividing family land when the title holder dies, in at least one case one branch of the heirs broke with custom and petitioned the Court to distribute the property. Civil Action No. 48, in the Trial Division of the Saipan Court of Appeals - In Re Petition for Distribution of Real Estate of Juan Malus, Deceased, Gregoria L. Olopai, the heir of one of three daughters, won her point in asking for a distribution of the land of her grandfather. Juan Malus died in 1912. At that time he owned 13.0 hectares of land on Saipan. He had three daughters and at least one son. The daughters were recognized by the German Administration as owners of the land of their father. The son was not given any ownership rights with his sisters.

Eventually two of the sisters died leaving heirs, one of whom, Gregoria Olopai, petitioned the Court for a distribution of the property. This was contested by one of the daughters of Juan Malus, together with the heirs of a deceased sister. The Court rejected the contention of the daughter of Juan Malus and her followers that family land could not be divided within Carolinian custom. The Court set forth a formula for effecting the distribution and the objectors to distribution started to appeal the Decree granting partition. However, before appeal was heard, the heirs of Juan Malus agreed on a distribution, had the land surveyed, and the Court accepted their request for confirmation of the distribution and closed the case.

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3(b)

An interesting aspect of the case is that a son of Juan Malus is still living and the heirs of two of the daughters of Juan Malus recognize his right to build a house and live on the land even though the German title to the land specifically states his heirs do not inherit any legal interests in the land.

The Malus case points up the fact that even though names are inserted in the land title documents of Saipan Carolinians there may be many others who hold some interest in the land during their lifetime. This is a fruitful field for problems that are now facing the Marianas District Land Management Office. Most of the Exchange Agreements and Waivers that were executed during the 1950's with respect to Saipan land negotiations were signed by one person and the records do not show who else, if anyone, was consulted with respect to the transaction. The same factor enters complaints made by Chamorros. Some Chamorros are now complaining that the person who signed the land documents did not represent the entire body of heirs.

The population of Saipan has been reported as being composed of 1330 Chamorros and 772 Carolinians in 1901, shortly after the Germans took over the administration of the present islands of the Trust Territory. This moved up to 1920 Chamorros and 1109 Carolinians, for a total of 3102 in 1912, shortly before the Germans were replaced by the Japanese in 1914.

THE JAPANESE ADMINISTRATION

Even with the increase in population during the German administration, there was still an excess of land in the public domain of Saipan. When the Japanese took over the islands from the Germans they reviewed and confirmed the deeds issued by the Germans but stopped the homesteading program and started using the public domain to further their own interests.

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At first they refused to approve land sales between local people and aliens. This was changed in 1931 to permit legal alienation of land if the sale was approved by the Saipan Branch of the South Seas Bureau and then confirmed by the head of the South Seas Bureau located at Koror.

A survey of land ownership on Saipan made shortly after the U. S. invasion of the island revealed the following land ownership pattern:

(Copied from Coburn Report, Feb. 28, 1945)

	<u>Cho</u>	<u>Tan</u>	<u>Se</u>	<u>Bu</u>	<u>Go</u>	<u>Shyaku</u>	<u>Sai</u>
Chamorro and Carolinians	2009	5	5	19	4	6	0
Japanese	95	2	3	12	3	8	0
Korean	0	5	0	0	0	0	0
N.K.K.	809	6	4	4	4	3	5
TOTAL	2914	9	3	6	2	7	5

Excluding town lots, the total amount of land leased to different groups on Saipan was as follows:

	<u>Cho</u>	<u>Tan</u>	<u>Se</u>	<u>Bu</u>	<u>Go</u>	<u>Shyaku</u>	<u>Sai</u>
Chamorros and Carolinians	34	1	1	0	0	0	0
Japanese	325	8	8	4	9	2	5
Koreans	5	8	3	0	0	0	0
N.K.K.	6346	7	4	17	6	2	5
TOTAL	6712	5	6	22	6	5	0

The initials N.K.K. refer to the large Japanese corporation that was active throughout the Trust Territory in many fields of industrial development. It was the Nanyo Kohatsu Kabushiki Kaisha (South Seas Development Company). It operated sugar mills in addition to growing cane. Most of its land on Saipan and Tinian was leased from the Government.

The Japanese land measurement system was as follows:

1 Cho equals 10 Tan	1 Bu equals 10 Go
1 Tan equals 10 Se	1 Go equals 10 Shyaku
1 Se equals 30 Bu or Tsubo	1 Shyaku equals 10 Sai

(1 Cho equals slightly less than 1 hectare)
(1 hectare is 10,000 sq. meters, or 2.47 acres)

Saipan contains approximately 10,000 hectares of arable land. From the above figures it is readily seen that N.K.K. dominated the island. Although local people owned most of the non-government land, very few of them did any farming beyond small garden plots. Nearly all of it was leased to N.K.K. There was approximately 4,000 hectares of Saipan in sugar cane at the outbreak of World War II.

THE U.S. ADMINISTRATION

THE INVASION

Saipan was selected for invasion as it would enable the Military Forces of the United States to operate land based planes directly against the Japanese home islands. Aerial photographs were made of the island in the early part of 1944 and on June 11, 1944, the pre-invasion bombardment started. Actual troop landings were made on the morning of June 15, 1944. Over 30,000 Japanese troops were on the island and the Americans landed approximately 80,000 men to capture the island. Approximately 900 Japanese troops were captured. The others were killed in combat, committed suicide or were lost at sea. The battle was so hard fought that almost all of the buildings on the island were destroyed.

Military Government was officially established on Saipan on June 19, 1944, when Proclamation No. 1, was posted in the areas occupied by U. S. Armed Forces. A copy of this proclamation, together with nine additional proclamations which were posted on Saipan, may be found in Volume I, pages 667-688, United States Naval Administration of the Trust Territory of the Pacific Islands, by Dorothy E. Richard.

Proclamation No. 1, addressed to the people of the Mariana Islands, notified the people of Saipan that all powers of the Government of the Japanese Empire had been suspended and that "all powers of government

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4(a)

and jurisdiction in the Mariana Islands and adjacent waters, and over the inhabitants thereof, and final administrative responsibility are vested in me as Admiral, United States Navy, Commanding the forces of occupation and as Military Governor, and will be exercised through subordinate commanders by my direction (Admiral C. W. Nimitz)." The people were assured that "Your existing customs, religious beliefs and property rights will be respected and existing laws will remain in force and effect except insofar as it may be necessary for me in the exercise of my powers and duties to change them."

From the first day of the invasion civilians started drifting back through the U. S. lines and temporary stockades were established to separate them from the rush and crush brought about by the landing of 8,000 armed men within the first 20 minutes of the initial landings on the western beaches of Saipan. Conditions must have been frightful for local people. No shelter, very little water and almost no medical attention. The U. S. troops ashore had all they could do to occupy their assigned positions ashore in the face of the Japanese defenders who were determined to repel the invaders and throw them back into the sea.

The fury of the first days of the invasion did not abate until July 9, when the U. S. troops closed in on the Japanese defenders at the northern tip of the island. Even after that there were several hundred Japanese troops still resisting from the caves and cliffs of the island. The local people were put in protective custody, first in Camp Susupe and later in the village of Chalan Kanoa. Except to go out with armed guards on work missions, the local people were to stay behind fences which surrounded Chalan Kanoa until July 4, 1946 - two years from the invasion of the islands.

The battle of Saipan destroyed nearly all of the improvements that had been put on the island by man and the Americans then built a major base for attacking Japan.

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At one time there were approximately 200,000 American troops on Saipan. The entire island was covered with paved roads, airstrips, fuel dumps, warehouses, pipelines, power lines, quarters and military training areas. Huge ammunition dumps were constructed. Hardly a square foot of the island remained undisturbed. Small wonder that when the local people did emerge from Chalan Kanoa many were unable to locate their land with any degree of certainty and many could not go back to it for the reason that it was covered with U. S. military installations.

THE LOSS OF LAND RECORDS

There were some 15,000 Japanese civilians on Saipan at the time of the invasion. However, there had been as many as 20,000 about the time the war broke out. After the fighting on Saipan ended, there were 2300 Chamorros and 800 Carolinians. Over 400 local people had died during the fighting. With such a large number of foreigners on the island, there was considerable pressure on the local people to lease and to sell their land. It appears a favorite play of the Japanese was to lease land and later convert the lease to a sale. Nearly all leases of Saipan land to Japanese required the lessee to pay the entire rental, even for as much as 10 years, in advance. With many of the leases for 20 years, it is now difficult to tell whether the land was sold or leased. It is extremely difficult to reconstruct any of the land transfers between local people and Japanese except for land sales to N.K.K. Many of N.K.K. records were captured intact and are still available.

Unfortunately, all of the public land office records were lost during the fighting on Saipan, including the survey maps and nearly all of the individual monuments which marked the corners of land parcels. No complete map of the Japanese surveys was ever found. Copies of many land documents, including maps, were sent to Koror, the Japanese capital of the Mandated Islands.

However, those records were never recovered. Nearly all of Koror was either bombed out or bulldozed away after U. S. occupation.

Enough parts of Japanese cadastral maps of Saipan were captured to enable the Military Government to piece together a cadastral map of the entire island. It bears the numbers of the final Japanese survey. While the map is useful in locating a land parcel with respect to adjoining parcels, it is not accurate enough for surveyors to retrace pre-war boundaries and determine areas. It should be noted Garapan blocks and streets are not numbered or named on the map. It appears the new numbering system for Garapan lots had not been finalized when the Garapan portion of the map was made. Saipan Land Management records show block and lot numbers for pre-war Garapan parcels but the lot and block numbers were prepared arbitrarily by Land Office personnel when the ownership determinations were being made.

Saipan was divided into five mura, or districts. They were as follows: Kita (north), Higashe (east), Minami (south), Garapan and Chalan Kanoa. It is necessary to have both lot number and district to locate a parcel of land on the map. A copy of the map is attached to this report and each agricultural lot that is mentioned in the six U. S. Court of Claims cases is marked on the maps.

ALIEN PROPERTY CUSTODIAN

Many people on Saipan today maintain they have been deprived of their family land because the District Land Title Officer determined that their parents' land had been sold to the Japanese. In such cases the land was vested in the Area Property Custodian (now the Alien Property Custodian). At first the Saipan Land Title Officer attempted to hold hearings on each parcel of land suspected of belonging to a Japanese. This proved to be such a great task the officials gave up and relied on a plan to hold hearings on private property claims and then consider the remainder of Saipan land to either belong to the Government by right of succession

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to Japanese Government rights or to the Area Property Custodian in accordance with a general vesting order of the Trust Territory which was issued on September 27, 1951. This may have simplified the work of the land office at the time but it has put in doubt the title to a great deal of the land held by both the Japanese Government and individual Japanese nationals and corporations.

Recently two cases were before the Trial Division of the High Court in Saipan for a distribution of property. Both cases included land for distribution that the Government contends is either land vested in the Alien Property Custodian or the property of the Government by succession from the Japanese Administration. The Court determined that the land never belonged to the Government. In one of the cases the land had been given in exchange to a local person. Fortunately, he had not improved it in any way so all the Government will have to do is find him more land. In the other case the land had not been granted to anyone according to Marianas District Land Management personnel.

The starting point of the Japanese land surveys was a concrete pillar located beside the east edge of the Garapan pier. It was damaged during the invasion of Saipan but was reported still in place and about three feet high after the fighting had stopped. However, the pillar was lost during the cleaning of the area and the construction of warehouses for U. S. Military Forces. As the monuments which marked the boundaries of land parcels were nearly all lost during the intensive use of the island as a military base, the loss of the initial point of the Japanese survey made it nearly impossible to reconstruct the boundaries as they existed before the war.

The loss of land monuments and maps, together with the fact the U. S. authorities considered most Garapan Village lots too small for homesites, led to a decision to replan the Village of Garapan.

Even though the people had freedom of movement over the island after July 4, 1946, many could not return to their own land and take possession of it. The U. S. Military Forces still occupied large areas of the island and continued to occupy it until late 1950. Also, decisions were not made until about 1950 as to which areas of Saipan the Department of Defense wanted to keep as military retention areas. The future political status of the island was not settled even in part until 1947 when the United Nations and the United States decided on a strategic trusteeship for all of the former Japanese Mandated Islands under U. S. Administration.

REVOCABLE PERMITS

While the people were in protective custody in Chalan Kanoa some of them were permitted to work outside the village on farms to grow food. To avoid a continuation of this practice, the Administration adopted a revocable permit system. Anyone who wanted to could get as much land as he wanted for growing crops and raising animals. This system was established in 1947 and closed in 1953 to make land available for the exchange of public domain land for private land that was found to be in military retention areas or was damaged to the extent the owner didn't want it back.

The revocable permit program may have helped some people obtain garden produce for their own subsistence but it confused and frustrated many people who felt they had acquired some interest in the land because of clearing and cultivating. People were encouraged to plant permanent trees in some cases and then lost them to another person. Many people did get the land held by revocable permit conveyed to them during the exchange programs. Others obtained homestead permits for the land they occupied under the revocable permit system. The Government is still faced with several people in possession of land they occupied

under revocable permits. They simply refuse to give up and the Government has been reluctant to take court action to evict them.

LAND OWNERSHIP DETERMINATIONS

Although the U. S. Military Forces had collected declarations of land ownership from the people of Saipan in 1944 and 1945, another collection of declarations of land ownership was made in 1947 and 1948. Some complaints are heard today that proper notice was not given about the time of taking the declarations of land ownership. Also, complaints are made that heirs were not given an opportunity to present claim for the land owned by deceased relatives. It is quite true a Saipanese land owner on Koror or Yap would not have had an opportunity to file a declaration of land ownership when the Military Government collected such declarations in 1944-45. However, a special effort was made by the officer who took the declarations to obtain statements in behalf of deceased or missing land owners. Many such statements are in the Marianas Land Management Office files. The 1947-48 land ownership declarations also contain statements made on behalf of missing, incompetent, or deceased owners.

Determination of Ownership No. 1, was made on Saipan by the District Land Title Officer in April 1951. The declarations of land ownership that had been collected during the Military Government in 1944-45 and the declarations collected in 1947-48 were used as the basis for hearings conducted by the Saipan District Title Officer (now known as the District Land Title Officer). Very few people had any documents to prove ownership and all of the public land office records were lost. Therefore, the testimony of witnesses was nearly all the officials had to rely on for determination of land ownership. Approximately 800 certificates of ownership for agricultural lots and 650 for village tracts have been issued on Saipan.

GARAPAN REPLANNED

To replan the Village of Garapan the District Land Title Officer held hearings on claims of land ownership in the former village and when he determined the claimant as the owner a Determination of Ownership was issued in favor of the claimant but he was denied possession of the land pending the development of a new Village of Garapan. Claimants who were successful in proving their claims to Garapan lots were required to sign a Quit Claim Deed to their former possessions and in return were given a Grant of Public Domain Land either in the new Village of Garapan or in some other location of their choice on the island. Many people preferred to receive a grant for the land they were occupying in Chalan Kanoa. Following the opening of the Chalan Kanoa gates many people with or without the assistance of the Administration built houses on lots which were formerly owned by the N.K.K. This land was all considered vested in the Area Property Custodian (now the Alien Property Custodian) and available for public use.

MILITARY RETENTION AREAS AND THE EXCHANGE PROGRAMS

The U. S. Military Forces decided they wanted to keep approximately 5,000 hectares of land on Saipan. After surveying the retention areas it was found there were 137 privately owned tracts with a total area of 400 hectares located within the designated areas. It was decided that people should be offered an exchange of public land for the privately owned land within the retention areas. Payment in cash, it was believed, would end with little gained from the money and would create a landless population. Also, the decision makers probably kept in mind the strong emotional attachment most Micronesians have for land in an area where land is very scarce. The exchange programs got underway in 1953. Some exchanges are still pending today.

The 400 hectares of private land were exchanged for 723 hectares of public land. Some landowners attempted to resist the exchange of land. However, in the end, all but three or four of the persons who owned land within

the retention areas agreed to exchange. The exceptions were not known at the time the exchange program was underway. They have come to light in recent years. Since the designation of the military retention areas, 3,000 hectares of the original 5,000 hectares in the military retention areas have been returned to the Trust Territory Government as it was determined to be no longer needed by the Department of Defense. The exchange of land made the Trust Territory Government the owner of the former private land and it in turn leased the land to the U. S. Department of Defense. The U. S. owns no land in the Trust Territory. Every five years the Department of Defense must review its need for the retained land. If it is found the land is no longer needed by the U. S. it is released to the Trust Territory Government. This has led many people who had to exchange their land which was in the retained areas to attempt to regain their former land. However, the officials who designed the exchange program made a strong point of NOT promising return of any land taken for defense purposes. Many of the frictions on Saipan today revolve around this point.

As the retention areas were for the use of the United States Government, it was decided the United States should pay ^{for} ALL of the land in the retention areas and that no return payment would be made by the Trust Territory Government when the land was no longer needed by the United States. The matter of how much the United States should pay for the retained land was discussed at length by the decision making people. The final price was \$40 per acre. All funds from these transactions were earmarked for the benefit of the indigenous residents of the Saipan District. This included all of the Marianas north of Guam except Rota which was at that time a separate district still under the Department of the Interior.

A Special Deposit Fund was established with the Commander in Chief, United States Pacific Fleet, as Trustee. A special board of the Saipan District Administration was established as the manager for the Trustee.

This fund was established in the 1950s when the Navy was administering the Saipan District. Now that Rota is again linked administratively with Saipan and Tinian, some Saipanese complain that people from Rota obtain benefits from the Special Deposit Fund to which they are not entitled. Also, many of the people who were forced to exchange land that was in the retention areas feel they should have received some of the money the United States paid into the fund in addition to the land they received in the exchange.

Very few people have a clear understanding of the origin of the fund and how it has been used. The High Commissioner of the Trust Territory is now the Trustee for the fund and it is administered from Trust Territory Headquarters. Funds from the Special Deposit Fund have been used for economic development scholarships in the past but this has been discontinued. One loan has been repaid and no other economic development loans have been made. Some money was used to construct the hospital at Saipan. In the past year a loan of \$130,000 was made available to the Mariana Islands Housing Authority to finance homes for indigenous people of Saipan.

A second type of exchange of private for public land involved some 103 parcels with total area of 240 hectares. This consisted of land which was bulldozed and coralized for supply areas, shops or other military installations. Any land owner who thought his land was damaged to the extent that he preferred other land in exchange could give the Government a Quit Claim Deed to his land and obtain in exchange a grant of public land which would be equal in value to the land given to the Government. Now nearly all of the people who exchanged land, or their heirs, are requesting payment of damages. They state that they did not receive compensation for the damage and use of their land. Nearly every exchange gave the landowner more land than he gave to the Government. The total given to the Government in the damaged land exchange program was 240 hectares and the landowners got 482 hectares of public land in return.

Some owners of land damaged by the U. S. Military Forces decided they did not want an exchange of land. They signed waivers which usually followed one of two lines as follows:

- (1) "I, _____ certify that I do not claim any reimbursement for damage to the above listed lot. The damage is considerable but I still want to keep it. The Land & Claim this date have offered me an exchange lot which I decline."
- (2) "I, _____ certify that I do not claim any reimbursement for damage to the land listed above. The damage is so minor that it is not worth the trouble of an exchange agreement. The Land & Claim have offered me an exchange Lot which I declined."

Now, people who signed waivers such as those shown above are claiming the waivers were not translated into their own language or that they were misinformed as to what the waiver meant. In some cases involving an estate with two or more heirs only one heir would sign the waiver and now the other heirs claim they were not consulted and do not accept the action of their fellow heir as binding on them. Very few of the land trustees of Saipan, and there are approximately 150, were appointed by formal letter.

The Government made an effort to give the pre-war landowner sufficient land to extinguish all claims arising out of the use or occupancy of the land by the United States or the Trust Territory. The standard language included in the Exchange Agreements is as follows:

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, and the mutual benefits to be derived herefrom, it is agreed by and between the parties hereto as follows:

1. The PARTY OF THE FIRST PART (the landowner) shall convey to the PARTY OF THE SECOND PART (Trust Territory Government) title to the land above described as Lot No. _____, and shall release said PARTY OF THE SECOND PART, its successors and assigns, and the UNITED STATES OF AMERICA from any and all claims arising out of the use or occupancy of said land by the PARTY OF THE SECOND PART, or the Armed Forces of the United States.

When the Quit Claim Deed was signed by the landowner, it contained even stronger language with respect to release of all claims against the

United States or the Trust Territory. The usual language is as follows:

In further consideration of the conveyance of public domain lands as aforesaid, receipt whereof being hereby acknowledged, the Grantors, for themselves, their heirs and assigns hereby remise, release and forever discharge the Grantee, its successors and assigns and the United States of America, its officers, agents and employees, of and from all manner of actions, claims or demands which they or any of them ever had, now have or ever will have against either the Grantee or the United States of America by reason of any act, cause, matter or thing whatsoever arising out of the use and occupancy by Grantee or the United States of the above described lands at any time prior to the date hereof.

Some of the cases presented to the U. S. Court of Claims and many of the complaints heard with respect to Saipan land problems involve the Exchange Agreement. Perhaps there were some cases where landowners signed exchange agreements and did not understand what the agreement meant. However, in Civil Action No. 158 of the Trial Division of the High Court, Mariana Islands District, in the Matter of the Estate of VICENTE D. DE CASTRO, Deceased, by GREGORIO P. CASTRO, Son and Petitioner, a portion of the Court's OPINION reads as follows:

The Petitioner, Gregorio P. Castro, having expressly consented to these agreements (Exchange Agreements Nos. 220 and 221) and shared in the use of the lands received in exchange for them since about May 3, 1956, and these agreements having contained a provision to release the Trust Territory and the United States of America from any and all claims arising out of the use and occupancy of the land to be conveyed by the heirs under these agreements, is estopped to now claim any rent for the use of the lands so conveyed.

The complaints about the Exchange Agreements are as follows:

- (1) They were forced to sign the agreements.
- (2) The agreement was not translated for them. They did not know the agreement contained a release of claims.
- (3) All persons involved did not know an exchange agreement was being negotiated.
- (4) The exchange parcel received in return for pre-war land was smaller than the land that was promised.
- (5) They don't know where their boundaries are and in some cases their exchange parcel extends onto their neighbor's land.

The Government's reply to (1) is that land which was in the military retention areas and in the pre-war Village of Garapan had to be

exchanged or the land would be taken and the owner paid in cash either by a negotiated settlement or by condemnation. No one was forced to exchange damaged land outside the retention areas. Many owners of damaged land were offered exchanges and declined them.

With respect to the second complaint the Government conducted its exchange program over a period of some five or six years and there were many different persons involved in it. Although a copy of the exchange agreement was not translated into Chamorro or Carolinian, persons still on Saipan who worked in the exchange program say the contents of the agreements were explained in the landowner's language. There appears to be good reason in some cases for complaints that all parties concerned were not informed about the exchange agreements and would not have agreed to the terms of the exchange had they known about it.

There are some 70 cases known that the landowners did not receive as much land as was promised during the negotiations that led to the execution of the exchange agreements. This was brought about by the fact the exchange agreements were negotiated before the exchange parcels were surveyed. Persons were shown the land and the approximate boundaries and the exchange agreements signed with the understanding that if the exchange parcel was substantially less in area than promised, additional land would be given to make up the deficiency. By "substantial" the District Land Title Officer has stated he meant if the exchange parcel was one-tenth or more of a hectare less than promised, additional land would be given. Thus far the Government has not made good its promises with respect to making up the deficiencies in the exchange program. At this point it will be extremely difficult to reach an agreement with persons who failed to get all of the land they expected in the exchange program. Desirable public land on Saipan that the Government is willing to give up is very scarce. The land most of the people want to make up

their deficiencies is along the paved roads or near public beaches. This land in most cases has been marked for some important public use and the Government doesn't want to give it up.

There is a considerable body of public land the Government has no immediate use for on Saipan but it is far from the paved roads, it has no water and is removed from power lines and the villages. Nearly all of it is covered by dense jungle, it is rough and rocky, and inaccessible except by walking or by jeep.

There is good reason for some of the complaints with respect to boundaries encroaching onto private land. The failure to survey the private land and relocate pre-war boundaries on land which was not exchanged has led to some thirty known cases of encroachment on private land. How many there actually are is not known but there must be as many or even more unknown encroachments than known. Very few people are cultivating their land intensively at present and therefore unaware that an encroachment on another person's land exists.

Chapter 15, Trust Territory Code, pertains to REAL PROPERTY. Sec. 926 of the Code pertains to the duties of the Land and Claims Administrator. Office of Land Management Regulation No. 1, sets forth the procedures for the determination of ownership of lands now or formerly used, occupied or controlled by the United States or the Trust Territory. In addition to the determination of ownership, Sec. 926 of the Code requires the Land and Claims Administrator "to perform all duties pertaining to surveying, settlement, leasing, homesteading and sale of the public lands of the Trust Territory, or in anywise respecting such public land and, also, such as relate to claims arising out of or pertaining to the use or occupation of private lands by the United States Government or any of its agencies, or by the Government of the Trust Territory". (Underscoring supplied).

As all of the land of Saipan at one time was used, occupied or controlled by U. S. Military Forces, Sec. 926 of the Code and Land Management Regulation No. 1, are very important factors in Saipan Land matters. Both are included in the Appendices attached to the Saipan land cases presented to the U. S. Court of Claims. It will be noted the Land and Claims Administrator is required to take claims involving the use or occupation of private lands by the United States or Trust Territory Governments. This was done on Saipan after Determination of Ownership was concluded at the time an exchange of land was being considered. In 1955 the Saipan District Land Title Officer posted and published two public announcements as follows:

NOTICE

Land owners, whose lands have been damaged by the United States Armed Forces and who have not yet exchanged such lands but who desire to exchange, are requested to appear at the Land and Claims Office during the month of April 1955.

JOHN P. RAKER
Land Title Officer

PUBLIC NOTICE

July 15, 1955 will be the last date the Land and Claims Office will accept claims for exchange of damaged lands. Any persons desiring to exchange damaged lands and who has not already executed an exchange agreement, appear at the Land and Claims Office on or before July 15, 1955.

John P. Raker
Land Title Officer

Even before the above notices were published, there had been an attempt to close the filing of all claims pertaining to land ownership. The following notice was posted in Saipan on January 17, 1952:

Public Notice No. 1

The time limit for filing claims of land ownership, rental claims for use or occupation by the United States Government or any agency thereof or for damages to the land by reasons of such occupation, has been established as six (6) months after the publication of this notice. Claims must be filed with the Land and Claims Office, Saipan Mariana Islands.

/s/ H. H. Hedges
District Administrator
Saipan District

/s/ J. A. Wood
Claims Examiner
Saipan District

The above notice was accompanied by a translation in the Chamorro language. Land Management Regulation No. 1, which is force today, is dated June 29, 1953. It requires a closing of claim filing to be posted for one year. At the time the Public Notice No. 1, was posted, Land Management Regulation No. 1, dated January 11, 1951, accompanied the INTERIM REGULATIONS for the Trust Territory. It did not set a time limit for filing claims for land ownership, together with claims for damages or for use, Section 14 reads in part as follows:

"Every person claiming any right, title, or interest in any land that is now, or has been in the past been, used or occupied by the United States may file at any time with the land and claims officer, or, in his absence, with the Civil Administrator, a statement of claim, ... Statements of claim should include a summary of the basis of the claim and the amount of damages claimed,....."

Civil Administrators will provide for public notice of right to file claims and the desirability of filing at an early date". (Underscoring supplied)

It will be noted specific authority to close the filing of claims was not included in the 1951 version of Land Management Regulation No. 1. Closing of filing of such claims is authorized under the present Land Management Regulation No. 1, but requires one (1) year notice. Public Notice No. 1, has been ignored by some Land Title Officers on Saipan who followed Mr. Wood. The present Land Title Officer has, so far as a search of the records reveals, relied on it to restrain him from accepting any claims for land ownership for determination of ownership.

This has led to many people becoming frustrated and disgruntled because they feel they have a legitimate claim for land ownership and can't get it heard. There is some justification for the present Land Title Officer's refusal to hold hearings and make ownership determinations with respect to land ownership. It appears that on Feb. 7, 1961, at a conference in the Office of the Saipan District Land Title Officer, a representative of the Officer in Charge of Construction, Commander Naval Forces, Marianas, advised the Land Title Officer that nothing could be done about ten new land claims which had been submitted to the Land Title Officer. He said that acceptance of new claims would mean that the Land Office could not complete its work and that such new claims could seriously impede the homesteading program. This has been interpreted by the Marianas District Land Title Officer to mean that no new title determinations can be made at any time. The Officer in Charge of Construction referred to above, was the Land and Claims Administrator for the Saipan District from 1953 until Saipan District was returned to Department of the Interior Administration in 1962.

A great deal of confusion has arisen in Saipan land matters because of the inability to reconstruct the records of land transactions which took place during the Japanese Administration. There is a popular belief held by many Saipanese that Japanese could not make legal land purchases. This is not true as Japanese Administration did modify the law in 1951 to permit alienation of land. The conditions for a legal sale of land to a Japanese were difficult to meet but several legitimate sales were completed.

TRUST TERRITORY POLICY LETTER P-1

Much misunderstanding had developed with respect to Saipan land matters as a result of misinterpreting the contents of Trust Territory Policy Letter, P-1, issued by the then Deputy High Commissioner on December 29, 1947. The letter outlined land policy and set guidelines with respect to how to determine the validity of land transfers made in the past.

This letter has been a key factor in many court cases involving District Land Title Officers' determinations concerning land sold by local people to Japanese. In Civil Action No. 190, Trial Division of the High Court, Palau District, BAULES SECHELONG, Appellant, vs. TRUST TERRITORY OF THE PACIFIC ISLANDS and its ALIEN PROPERTY CUSTODIAN, Appellees, the Court considered an appeal from the District Land Title Officer's determination that the appellant's land had been sold to a Japanese corporation in 1939. The Court modified some of the language in the Determination of Ownership but upheld the District Land Title Officer's determination that the sale of the land was valid and binding. In the OPINION of the Court, "On the merits, this appeal is governed primarily by the Deputy High Commissioner's Trust Territory Policy Letter P-1, of December 29, 1947. Under the policy announced therein, land transfers to Japanese corporations, since March 27, 1935 (the time Japan left the League of Nations), are subject to review, but the letter further provides:

"Such transfer will be considered valid unless the former owner (or heirs) establishes that the sale was not made of free will and the just compensation was not received."

The court considers that this sale was as voluntary as any sale can be to a corporation enjoying the powers of eminent domain the court holds that both the Ngeribkal clan and the "Yeb" lineage within it acquiesced in the sale of the land in question to Nanden and that the appellant has not sustained the burden of proving that those on behalf of whom he claims did not receive just compensation.

In 1966 the Mariana Islands District Legislature established a Select Committee to investigate land problems in the Mariana Islands District. The Committee proceeded with its work and made a report on February 26, 1968. Some 76 complaints were investigated by the Committee and among them were cases involving sale of land to Japanese Nationals. One of the complaints involved approximately 1.15 hectares which was sold to N.K.K. for ¥379,50 on December 12, 1936. The complainant stated the land was leased but the N.K.K. records established the land had in fact been sold. The findings of the Select Committee were as follows:

Land was sold to NKK after the Japanese withdrew from the League of Nations, which makes the sale illegal. In line with Trust Territory Policy Letter P-1, dated December 19, 1947, this sale was null and void."

SURVEYING

As stated heretofore, the excellent Japanese land survey of Saipan which was completed in 1939, after many years of hard work, was almost totally lost, together with records and maps. The U. S. Military Forces decided to establish an entirely new survey system. Observations were made on two nights and a total of 63 stars observed to locate a concrete pier on Managaha Island, a short distance from the main island of Saipan, as the starting point of a grid which was put down on Saipan for survey purposes.

A land survey program for Saipan District was initiated in 1949. In 1950--51, the surveyors established triangulation and secondary controls. Also they established a plane coordinate grid system based on a polyconic projection of one of the triangulation stations. By 1957 they had surveyed and monumented 18 military retention areas totalling 12,702 acres. They established the center-lines of all paved highways and established the perimeters of sites for eight island villages.

Under the Saipan land program, exchange parcels and agricultural homesteads were assumed to be government land. These parcels of unsurveyed public domain land are scattered throughout the island outside the military retention areas. Interspersed among the exchange and homestead parcels are several hundred parcels of private land, the boundaries of which are not definitely known.

Before the surveying of exchange and agricultural homesteads was started, it was agreed that the private lands should be surveyed first. For some reason, not known to present employees of the Land Management Office, the survey of private land was not accomplished.

It still has not been done to this time except for a few cases where court action was involved.

Exchange parcels in the village areas were surveyed before the deeds were granted. Therefore, the village lot boundaries do not pose a serious problem. However, the exchange parcels granted in agricultural lands, together with agricultural homestead parcels, pose problems the magnitude of which is not known. So little of Saipan agricultural land is in use today, possibly no more than 10% of the total arable land is under cultivation, many encroachments exist but are unknown. Some of these problems are creating trouble among landowners today and more will in the future as the population pressure on the land increases. Today the population of Saipan is approximately 10,000 and growing rapidly. To accelerate the homestead program the Navy Administration in 1957 decided to have aerial photographs made of the entire island and use them as the basis for describing homestead parcels. The use of the photo-contour maps enabled the Land Office officials to locate the approximate boundaries of the homestead parcel. Homesteaders were shown the approximate corners of their land and cautioned to plant well within the probable boundaries. However, many homesteaders have planted over their boundaries and some of them have been successful in getting the Land Title Officer to certify their encroachments on other land as being within their homestead. This has increased and complicated the work of the surveyors and will almost surely result in more complex land problems in the future. Perhaps long after the present problems have been either resolved or forgotten, the failure to survey the private lands before granting exchange parcels and homesteads in the public domain will remain to plague Land Management officials and the courts for many years to come.

THE HIGHWAY AND UTILITIES PROBLEM

Some of the present Saipan land cases presented to the U. S. Court of Claims involve rights-of-ways for highways, water pipelines and power lines.

There are 65 known cases of where paved roadways cross private land. Approximately 20 hectares of land is involved.

In some instances the Navy took easements where the roadways crossed private land. Such cases were where the roadways were wanted as a part of the military land retention program. In some cases no easement was obtained for the use of private land as a highway. However, the landowners did have the opportunity to make a claim for the land taken up by the road and in many cases they decided not to exercise the right to exchange the pre-war land for undamaged land in the public domain. Note the type of release they signed which is set forth earlier in this report.

There is evidence in the Marianas District files that the Navy did intend to exchange public land for the private land taken up by the paved roadways. However, as the exchange program proceeded some people were found who did not want to give up their pre-war land even if a roadway was on it that was not there before the war.

The Marianas District Administration has made a list of all the private lands involved with the paved roadways. The area of land taken up by the roadways has been computed fairly accurately-if the land parcels are actually where landowners think they are. Remember, private lands have NOT been surveyed to determine their actual boundaries. The District Administration has recommended that Headquarters budget funds for payment to the landowners, regardless of the fact some of the landowners signed easements or waivers or refused an offer of exchange for undamaged land. So far Headquarters has not been impressed with the Marianas recommendation with respect to payment for the rights-of-ways on any of the roadways.

Most of the water and electric lines are within a highway rights-of-way. In such cases the problem of all the utilities and the highways are identical. However, there are some water and electric lines that are not along the roadways.

The private lands they cross are known only approximately. Again, the lack of a survey of private lands makes it impossible to determine with accuracy just whose land is involved and how much.

CONCLUSION

In conclusion, it should be apparent that Saipan land problems are growing more complex with the passage of time. More and more people are dying who are the only sources of reliable information as to where pre-war boundaries existed. More people on Saipan make for greater pressures on the land. Where only two years ago choice lots could be had on the paved roadways with direct access to power and water for \$250 to \$500, the same lots today sell at \$2,000, or even more. (Lots of 7,500 to 10,000 sq. ft.). With the increase in funds being made available to the Trust Territory by the United States Government, the increase of activity on Saipan has caused land values to skyrocket. The readily apparent weaknesses in Saipan matters resulted from a combination of factors. Ten of the more outstanding factors are as follows:

1. Failure to reestablish the boundaries of all land parcels as delineated by the Japanese land surveys.
2. Failure to make determinations of ownership of all pre-war land parcels.
3. The lack of complete records with respect to the U. S. Armed Forces' actions in regard to land matters.
4. The misguided attempt of the Saipan Land Title Officer and the District Administrator in 1952 to close the filing of claims with respect to land ownership.
5. The failure to replace the Saipan District Land Title Officer with a fully qualified out-of-district Land Title Officer when the office became vacant at the time Saipan was transferred to Department of the Interior administration in 1962.

6. Failure to solve the war damage claims problem even to this day.
7. Failure to translate and index the pre-war land records that were recovered.
8. Failure to establish and administer a system of determining the legal heirs of deceased landowners shortly after the death of a landowner.
9. Failure to solve the problems relating to public highways, pipelines, electric lines, and related utilities, which cross private lands.
10. The failure of officials in the higher administrative positions to comprehend and appreciate the importance of solving land matters.

With talk of the possibility of United States troops returning to Saipan and Tinian sometime in the future, land speculation has reached its all-time post-war peak. Landowners are asking and sometimes getting astronomical rentals for lots that are still in boondocks and until two years ago were considered almost worthless. Asking rentals of \$1 per square meter per year are common for choice beach front lots in Garapan Village. Very few if any have rented at that price, but the mere fact landowners are turning down offers of 15¢ and 20¢ per square meter per year with confidence the rental price will soon reach their hoped for \$1 per square meter per year should show why so many people are making desperate efforts to regain their pre-war lots.

The six cases presented to the U. S. Court of Claims by Attorney William B. Nabors are examples of the intense emotional feelings the Saipanese have with respect to their land. Many of the pre-war owners have died and the heirs today know very little or nothing of the facts concerning their ancestors' lands - and they care less. They simply want "their land" returned.

A bright ray of hope has appeared on the scene with respect to clarification and settlement of some of the land problems of Saipan. It is Public Law 2-1, commonly referred to as "The Land Commission Act," passed during the Second Regular Session of the Congress of Micronesia, and contained in the Trust Territory Code, Sections 1025-1044, inclusive. A Senior Land

Commissioner has been employed for the Mariana Islands District and he has started to carry out his duties and responsibilities on Saipan. This will be a slow and tedious operation but when his work has been completed on Saipan, legal ownership of all land parcels will have been determined and titles registered according to the law. As this work calls for surveying all the land to which title is registered, the mistake made in the past to set aside the surveying of private lands will be corrected insofar as it can be corrected at this late date. This will provide an opportunity for people to be heard who maintain they own land but have not had their ownership confirmed by the District Land Title Officer.

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BACKGROUND MATERIAL FOR SAIPAN LAND CASES PRESENTED TO

THE U. S. COURT OF CLAIMS

By Maynard Neas, War Claims Officer,
Office of the Attorney General, Trust Territory
of the Pacific Islands. October 1968

Six Saipan land cases have been presented to the U. S. Court of Claims by Attorney William B. Nabors. All have some elements of similarity in that they are from the same island and all arose out of events which occurred during and shortly after the invasion of Saipan in 1944, by U. S. Military Forces. They are as follows:

Fitial vs. U. S., No. 215-68

Veronica Camacho, et al vs. U. S., No. 245-68

Huberto A. Taisakan vs. U. S., No. 246-68

Jose S. Igisair vs. U. S., No. 247-68

Pedro P. Camacho and Jose Q. Lizama vs. U. S., No. 248-68

Ana C. Castro et al vs. U. S., No. 249-68

In order to fully understand the six cases indicated above it is necessary to go back several years in the history of Saipan. The six land problems represented in the cases presented to the U. S. Court of Claims are only a few of some 500 similar cases which exist on Saipan today. The land problem cases are in addition to the routine work of surveying, land registration, administration of a homestead program and leasing of public land.

THE SPANISH ADMINISTRATION

The Spanish Administration of the Marianas which followed the discovery of the islands by Magellan was unable to cope with the Chamorros of the islands north of Guam. In order to bring the local people under their control, the Spanish moved all of the people of the Marianas to Guam with the exception of a few who hid out on Rota. The move to Guam was completed shortly before 1700. It has been estimated the Chamorro population of the Marianas was between 40,000 and 50,000 in 1668.

3 copies

Less than a half-century later the figure had fallen to slightly over 3,500. The reduction in population reduced pressure on Guam's land resources and for another century no attempt was made to return people to the islands north of Guam. Except for a few explorers who may have called at Saipan after 1700, the island was unoccupied until 1815. In that year a destructive typhoon struck Lamotrek, an atoll in the eastern part of the present Yap District, and a group of people from Lamotrek and neighboring atolls got permission from the Spanish Governor of Guam to relocate on Saipan. In return they were to kill wild cattle and pigs on Tinian and ship meat to Guam. They settled in the area of Saipan which later became the village of Garapan. Chamorros did not return to Saipan as permanent residents until well after the Carolinians were settled at Garapan. It is reported that only nine Chamorros were on the island in 1865. In 1886 the population was reported as 849, two-thirds of whom were Carolinians and the remainder Chamorros.

THE GERMANS IN SAIPAN

As a result of events which followed the Spanish-American war, the United States kept Guam but Spain was allowed to sell her remaining interests in Micronesia to Germany. Where Spain had almost no interest in the Marianas after the days of the Spanish Galleons which sometimes used Guam as a watering station for ships enroute from Mexico to Manila, Germany took over the administration of Micronesia with great interest and thought of it as a vital part of her Pacific colonies. They immediately started to develop the agricultural potential of Saipan, giving particular attention to the copra industry. The Germans reviewed the permits the Spanish had given for the occupation and use of land on Saipan. These were primarily aimed to develop the cattle industry. The Germans revoked the Spanish permits and followed a policy of "use it or lose it". Land that was in actual use was surveyed and a deed in fee simple issued to the occupant.

Land that was not in use was considered as being a part of the public domain. If Saipan settlers demonstrated they could use more land, they were given homesteads from the public domain and if they complied with the requirements they were given deeds in fee simple.

The excess of excellent land in the public domain on Saipan was used by the Germans to induce Chamorros and Carolinians of Guam to move to Saipan. Shortly after they took over the administration of Saipan the Germans moved some 200 Carolinians from Tinian to the island.

They were located in the area now known as Tanapag. The action taken by the German Administration to issue titles in fee simple was a radical departure from the customs followed by the Carolinians but well in line with the land tenure system the Chamorros had developed during their association with the Spanish Administration on Guam. It might be noted the Chamorros who moved from Guam to Saipan had no known connections with the Chamorros who were moved from Saipan to Guam before 1700.

The ancient Chamorros are believed to have followed a matrilineal system of inheritance of land rights. Inheritance of land rights before contact with the Spanish appears to have been through the mother's brother. During the period they were under complete domination by the Spanish the matrilineal land tenure system gave way to a system of individual ownership. If a Chamorro woman owns land in her own right it does not become the property of her husband when she marries. It is common for both husband and wife to make a division of their land before death. This is called the "partido". It is seldom in writing and if not made before death occurs, the heirs make the division after the death of the owners.

The Carolinians of Saipan have continued to operate within their traditional land tenure pattern. Farm land and town lots and buildings are owned collectively by the female members of the matrilineal lineages.

3(a)

Lineage land is not supposed to be divided when members of a lineage die. The Germans insisted on issuing land titles to one person. Accordingly, the titles issued to Carolinians for the land they were using at the time the Germans took over administration of Saipan were issued in the name of the eldest female member of the lineage in most cases. The homesteading program introduced by the Germans resulted in some men receiving land titles. In such cases the man passed his land to his daughters who subsequently founded a new matrilineal lineage whose lands were those passed on to the founders by the father.

Although most Saipan Carolinians follow the custom of not dividing family land when the title holder dies, in at least one case one branch of the heirs broke with custom and petitioned the Court to distribute the property. Civil Action No. 48, in the Trial Division of the Saipan Court of Appeals - In Re Petition for Distribution of Real Estate of Juan Malus, Deceased, Gregoria L. Olopai, the heir of one of three daughters, won her point in asking for a distribution of the land of her grandfather. Juan Malus died in 1912. At that time he owned 13.0 hectares of land on Saipan. He had three daughters and at least one son. The daughters were recognized by the German Administration as owners of the land of their father. The son was not given any ownership rights with his sisters.

Eventually two of the sisters died leaving heirs, one of whom, Gregoria Olopai, petitioned the Court for a distribution of the property. This was contested by one of the daughters of Juan Malus, together with the heirs of a deceased sister. The Court rejected the contention of the daughter of Juan Malus and her followers that family land could not be divided within Carolinian custom. The Court set forth a formula for effecting the distribution and the objectors to distribution started to appeal the Decree granting partition. However, before appeal was heard, the heirs of Juan Malus agreed on a distribution, had the land surveyed, and the Court accepted their request for confirmation of the distribution and closed the case.

3(b)

An interesting aspect of the case is that a son of Juan Malus is still living and the heirs of two of the daughters of Juan Malus recognize his right to build a house and live on the land even though the German title to the land specifically states his heirs do not inherit any legal interests in the land.

The Malus case points up the fact that even though names are inserted in the land title documents of Saipan Carolinians there may be many others who hold some interest in the land during their lifetime. This is a fruitful field for problems that are now facing the Marianas District Land Management Office. Most of the Exchange Agreements and Waivers that were executed during the 1950's with respect to Saipan land negotiations were signed by one person and the records do not show who else, if anyone, was consulted with respect to the transaction. The same factor enters complaints made by Chamorros. Some Chamorros are now complaining that the person who signed the land documents did not represent the entire body of heirs.

The population of Saipan has been reported as being composed of 1330 Chamorros and 772 Carolinians in 1901, shortly after the Germans took over the administration of the present islands of the Trust Territory. This moved up to 1920 Chamorros and 1109 Carolinians, for a total of 3102 in 1912, shortly before the Germans were replaced by the Japanese in 1914.

THE JAPANESE ADMINISTRATION

Even with the increase in population during the German administration, there was still an excess of land in the public domain of Saipan.

When the Japanese took over the islands from the Germans they reviewed and confirmed the deeds issued by the Germans but stopped the homesteading program and started using the public domain to further their own interests.

2(c)

At first they refused to approve land sales between local people and aliens. This was changed in 1931 to permit legal alienation of land if the sale was approved by the Saipan Branch of the South Seas Bureau and then confirmed by the head of the South Seas Bureau located at Koror.

A survey of land ownership on Saipan made shortly after the U. S. invasion of the island revealed the following land ownership pattern:

(Copied from Coburn Report, Feb. 28, 1945)

	<u>Cho</u>	<u>Tan</u>	<u>Se</u>	<u>Bu</u>	<u>Go</u>	<u>Shyaku</u>	<u>Sai</u>
Chamorro and Carolinians	2009	5	5	19	4	6	0
Japanese	95	2	3	12	3	8	0
Korean	0	5	0	0	0	0	0
N.K.K.	809	6	4	4	4	3	5
TOTAL	2914	9	3	6	2	7	5

Excluding town lots, the total amount of land leased to different groups on Saipan was as follows:

	<u>Cho</u>	<u>Tan</u>	<u>Se</u>	<u>Bu</u>	<u>Go</u>	<u>Shyaku</u>	<u>Sai</u>
Chamorros and Carolinians	34	1	1	0	0	0	0
Japanese	325	8	8	4	9	2	5
Koreans	5	8	3	0	0	0	0
N.K.K.	6346	7	4	17	6	2	5
TOTAL	6712	5	6	22	6	5	0

The initials N.K.K. refer to the large Japanese corporation that was active throughout the Trust Territory in many fields of industrial development. It was the Nanyo Kohatsu Kabushiki Kaisha (South Seas Development Company). It operated sugar mills in addition to growing cane. Most of its land on Saipan and Tinian was leased from the Government.

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The Japanese land measurement system was as follows:

1 Cho equals 10 Tan	1 Bu equals 10 Go
1 Tan equals 10 Se	1 Go equals 10 Shyaku
1 Se equals 30 Bu or Tsubo	1 Shyaku equals 10 Sai
(1 Cho equals slightly less than 1 hectare)	
(1 hectare is 10,000 sq. meters, or 2.47 acres)	

Saipan contains approximately 10,000 hectares of arable land. From the above figures it is readily seen that N.K.K. dominated the island. Although local people owned most of the non-government land, very few of them did any farming beyond small garden plots. Nearly all of it was leased to N.K.K. There was approximately 4,000 hectares of Saipan in sugar cane at the outbreak of World War II.

THE U.S. ADMINISTRATION

THE INVASION

Saipan was selected for invasion as it would enable the Military Forces of the United States to operate land based planes directly against the Japanese home islands. Aerial photographs were made of the island in the early part of 1944 and on June 11, 1944, the pre-invasion bombardment started. Actual troop landings were made on the morning of June 15, 1944. Over 30,000 Japanese troops were on the island and the Americans landed approximately 80,000 men to capture the island. Approximately 900 Japanese troops were captured. The others were killed in combat, committed suicide or were lost at sea. The battle was so hard fought that almost all of the buildings on the island were destroyed.

Military Government was officially established on Saipan on June 19, 1944, when Proclamation No. 1, was posted in the areas occupied by U. S. Armed Forces. A copy of this proclamation, together with nine additional proclamations which were posted on Saipan, may be found in Volume I, pages 667-688, United States Naval Administration of the Trust Territory of the Pacific Islands, by Dorothy E. Richard.

Proclamation No. 1, addressed to the people of the Mariana Islands, notified the people of Saipan that all powers of the Government of the Japanese Empire had been suspended and that "all powers of government

4(a)

and jurisdiction in the Mariana Islands and adjacent waters, and over the inhabitants thereof, and final administrative responsibility are vested in me as Admiral, United States Navy, Commanding the forces of occupation and as Military Governor, and will be exercised through subordinate commanders by my direction (Admiral C. W. Nimitz)." The people were assured that "Your existing customs, religious beliefs and property rights will be respected and existing laws will remain in force and effect except insofar as it may be necessary for me in the exercise of my powers and duties to change them."

From the first day of the invasion civilians started drifting back through the U. S. lines and temporary stockades were established to separate them from the rush and crush brought about by the landing of 8,000 armed men within the first 20 minutes of the initial landings on the western beaches of Saipan. Conditions must have been frightful for local people. No shelter, very little water and almost no medical attention. The U. S. troops ashore had all they could do to occupy their assigned positions ashore in the face of the Japanese defenders who were determined to repel the invaders and throw them back into the sea.

The fury of the first days of the invasion did not abate until July 9, when the U. S. troops closed in on the Japanese defenders at the northern tip of the island. Even after that there were several hundred Japanese troops still resisting from the caves and cliffs of the island. The local people were put in protective custody, first in Camp Susupe and later in the village of Chalan Kanoa. Except to go out with armed guards on work missions, the local people were to stay behind fences which surrounded Chalan Kanoa until July 4, 1946 - two years from the invasion of the islands.

The battle of Saipan destroyed nearly all of the improvements that had been put on the island by man and the Americans then built a major base for attacking Japan.

At one time there were approximately 200,000 American troops on Saipan. The entire island was covered with paved roads, airstrips, fuel dumps, warehouses, pipelines, power lines, quarters and military training areas. Huge ammunition dumps were constructed. Hardly a square foot of the island remained undisturbed. Small wonder that when the local people did emerge from Chalan Kanoa many were unable to locate their land with any degree of certainty and many could not go back to it for the reason that it was covered with U. S. military installations.

THE LOSS OF LAND RECORDS

There were some 15,000 Japanese civilians on Saipan at the time of the invasion. However, there had been as many as 20,000 about the time the war broke out. After the fighting on Saipan ended, there were 2300 Chamorros and 800 Carolinians. Over 400 local people had died during the fighting. With such a large number of foreigners on the island, there was considerable pressure on the local people to lease and to sell their land. It appears a favorite play of the Japanese was to lease land and later convert the lease to a sale. Nearly all leases of Saipan land to Japanese required the lessee to pay the entire rental, even for as much as 10 years, in advance. With many of the leases for 20 years, it is now difficult to tell whether the land was sold or leased. It is extremely difficult to reconstruct any of the land transfers between local people and Japanese except for land sales to N.K.K. Many of N.K.K. records were captured intact and are still available.

Unfortunately, all of the public land office records were lost during the fighting on Saipan, including the survey maps and nearly all of the individual monuments which marked the corners of land parcels. No complete map of the Japanese surveys was ever found. Copies of many land documents, including maps, were sent to Koror, the Japanese capital of the Mandated Islands.

However, those records were never recovered. Nearly all of Koror was either bombed out or bulldozed away after U. S. occupation.

Enough parts of Japanese cadastral maps of Saipan were captured to enable the Military Government to piece together a cadastral map of the entire island. It bears the numbers of the final Japanese survey. While the map is useful in locating a land parcel with respect to adjoining parcels, it is not accurate enough for surveyors to retrace pre-war boundaries and determine areas. It should be noted Garapan blocks and streets are not numbered or named on the map. It appears the new numbering system for Garapan lots had not been finalized when the Garapan portion of the map was made. Saipan Land Management records show block and lot numbers for pre-war Garapan parcels but the lot and block numbers were prepared arbitrarily by Land Office personnel when the ownership determinations were being made.

Saipan was divided into five mura, or districts. They were as follows: Kita (north), Higashe (east), Minami (south), Garapan and Chalan Kanoa. It is necessary to have both lot number and district to locate a parcel of land on the map. A copy of the map is attached to this report and each agricultural lot that is mentioned in the six U. S. Court of Claims cases is marked on the maps.

ALIEN PROPERTY CUSTODIAN

Many people on Saipan today maintain they have been deprived of their family land because the District Land Title Officer determined that their parents' land had been sold to the Japanese. In such cases the land was vested in the Area Property Custodian (now the Alien Property Custodian). At first the Saipan Land Title Officer attempted to hold hearings on each parcel of land suspected of belonging to a Japanese. This proved to be such a great task the officials gave up and relied on a plan to hold hearings on private property claims and then consider the remainder of Saipan land to either belong to the Government by right of succession

to Japanese Government rights or to the Area Property Custodian in accordance with a general vesting order of the Trust Territory which was issued on September 27, 1951. This may have simplified the work of the land office at the time but it has put in doubt the title to a great deal of the land held by both the Japanese Government and individual Japanese nationals and corporations.

Recently two cases were before the Trial Division of the High Court in Saipan for a distribution of property. Both cases included land for distribution that the Government contends is either land vested in the Alien Property Custodian or the property of the Government by succession from the Japanese Administration. The Court determined that the land never belonged to the Government. In one of the cases the land had been given in exchange to a local person. Fortunately, he had not improved it in any way so all the Government will have to do is find him more land. In the other case the land had not been granted to anyone according to Marianas District Land Management personnel.

The starting point of the Japanese land surveys was a concrete pillar located beside the east edge of the Garapan pier. It was damaged during the invasion of Saipan but was reported still in place and about three feet high after the fighting had stopped. However, the pillar was lost during the cleaning of the area and the construction of warehouses for U. S. Military Forces. As the monuments which marked the boundaries of land parcels were nearly all lost during the intensive use of the island as a military base, the loss of the initial point of the Japanese survey made it nearly impossible to reconstruct the boundaries as they existed before the war.

The loss of land monuments and maps, together with the fact the U. S. authorities considered most Garapan Village lots too small for homesites, led to a decision to replan the Village of Garapan.

Even though the people had freedom of movement over the island after July 4, 1946, many could not return to their own land and take possession of it. The U. S. Military Forces still occupied large areas of the island and continued to occupy it until late 1950. Also, decisions were not made until about 1950 as to which areas of Saipan the Department of Defense wanted to keep as military retention areas. The future political status of the island was not settled even in part until 1947 when the United Nations and the United States decided on a strategic trusteeship for all of the former Japanese Mandated Islands under U. S. Administration.

REVOCABLE PERMITS

While the people were in protective custody in Chalan Kanoa some of them were permitted to work outside the village on farms to grow food. To avoid a continuation of this practice, the Administration adopted a revocable permit system. Anyone who wanted to could get as much land as he wanted for growing crops and raising animals. This system was established in 1947 and closed in 1953 to make land available for the exchange of public domain land for private land that was found to be in military retention areas or was damaged to the extent the owner didn't want it back.

The revocable permit program may have helped some people obtain garden produce for their own subsistence but it confused and frustrated many people who felt they had acquired some interest in the land because of clearing and cultivating. People were encouraged to plant permanent trees in some cases and then lost them to another person. Many people did get the land held by revocable permit conveyed to them during the exchange programs. Others obtained homestead permits for the land they occupied under the revocable permit system. The Government is still faced with several people in possession of land they occupied

under revocable permits. They simply refuse to give up and the Government has been reluctant to take court action to evict them.

LAND OWNERSHIP DETERMINATIONS

Although the U. S. Military Forces had collected declarations of land ownership from the people of Saipan in 1944 and 1945, another collection of declarations of land ownership was made in 1947 and 1948. Some complaints are heard today that proper notice was not given about the time of taking the declarations of land ownership. Also, complaints are made that heirs were not given an opportunity to present claim for the land owned by deceased relatives. It is quite true a Saipanese land owner on Koror or Yap would not have had an opportunity to file a declaration of land ownership when the Military Government collected such declarations in 1944-45. However, a special effort was made by the officer who took the declarations to obtain statements in behalf of deceased or missing land owners. Many such statements are in the Marianas Land Management Office files. The 1947-48 land ownership declarations also contain statements made on behalf of missing, incompetent, or deceased owners.

Determination of Ownership No. 1, was made on Saipan by the District Land Title Officer in April 1951. The declarations of land ownership that had been collected during the Military Government in 1944-45 and the declarations collected in 1947-48 were used as the basis for hearings conducted by the Saipan District Title Officer (now known as the District Land Title Officer). Very few people had any documents to prove ownership and all of the public land office records were lost. Therefore, the testimony of witnesses was nearly all the officials had to rely on for determination of land ownership. Approximately 800 certificates of ownership for agricultural lots and 650 for village tracts have been issued on Saipan.

GARAPAN REPLANNED

To replan the Village of Garapan the District Land Title Officer held hearings on claims of land ownership in the former village and when he determined the claimant as the owner a Determination of Ownership was issued in favor of the claimant but he was denied possession of the land pending the development of a new Village of Garapan. Claimants who were successful in proving their claims to Garapan lots were required to sign a Quit Claim Deed to their former possessions and in return were given a Grant of Public Domain Land either in the new Village of Garapan or in some other location of their choice on the island. Many people preferred to receive a grant for the land they were occupying in Chalan Kanoa. Following the opening of the Chalan Kanoa gates many people with or without the assistance of the Administration built houses on lots which were formerly owned by the N.K.K. This land was all considered vested in the Area Property Custodian (now the Alien Property Custodian) and available for public use.

MILITARY RETENTION AREAS AND THE EXCHANGE PROGRAMS

The U. S. Military Forces decided they wanted to keep approximately 5,000 hectares of land on Saipan. After surveying the retention areas it was found there were 137 privately owned tracts with a total area of 400 hectares located within the designated areas. It was decided that people should be offered an exchange of public land for the privately owned land within the retention areas. Payment in cash, it was believed, would end with little gained from the money and would create a landless population. Also, the decision makers probably kept in mind the strong emotional attachment most Micronesians have for land in an area where land is very scarce. The exchange programs got underway in 1953. Some exchanges are still pending today.

The 400 hectares of private land were exchanged for 723 hectares of public land. Some landowners attempted to resist the exchange of land. However, in the end, all but three or four of the persons who owned land within

10(b)

the retention areas agreed to exchange. The exceptions were not known at the time the exchange program was underway. They have come to light in recent years. Since the designation of the military retention areas, 3,000 hectares of the original 5,000 hectares in the military retention areas have been returned to the Trust Territory Government as it was determined to be no longer needed by the Department of Defense. The exchange of land made the Trust Territory Government the owner of the former private land and it in turn leased the land to the U. S. Department of Defense. The U. S. owns no land in the Trust Territory. Every five years the Department of Defense must review its need for the retained land. If it is found the land is no longer needed by the U. S. it is released to the Trust Territory Government. This has led many people who had to exchange their land which was in the retained areas to attempt to regain their former land. However, the officials who designed the exchange program made a strong point of NOT promising return of any land taken for defense purposes. Many of the frictions on Saipan today revolve around this point.

As the retention areas were for the use of the United States Government, it was decided the United States should pay ^{for} ALL of the land in the retention areas and that no return payment would be made by the Trust Territory Government when the land was no longer needed by the United States. The matter of how much the United States should pay for the retained land was discussed at length by the decision making people. The final price was \$40 per acre. All funds from these transactions were earmarked for the benefit of the indigenous residents of the Saipan District. This included all of the Marianas north of Guam except Rota which was at that time a separate district still under the Department of the Interior.

A Special Deposit Fund was established with the Commander in Chief, United States Pacific Fleet, as Trustee. A special board of the Saipan District Administration was established as the manager for the Trustee.

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This fund was established in the 1950s when the Navy was administering the Saipan District. Now that Rota is again linked administratively with Saipan and Tinian, some Saipanese complain that people from Rota obtain benefits from the Special Deposit Fund to which they are not entitled. Also, many of the people who were forced to exchange land that was in the retention areas feel they should have received some of the money the United States paid into the fund in addition to the land they received in the exchange.

Very few people have a clear understanding of the origin of the fund and how it has been used. The High Commissioner of the Trust Territory is now the Trustee for the fund and it is administered from Trust Territory Headquarters. Funds from the Special Deposit Fund have been used for scholarships in the past but this has been discontinued. One loan has been repaid and no other economic development loans have been made. Some money was used to construct the hospital at Saipan. In the past year a loan of \$130,000 was made available to the Mariana Islands Housing Authority to finance homes for indigenous people of Saipan.

A second type of exchange of private for public land involved some 103 parcels with total area of 240 hectares. This consisted of land which was bulldozed and coralized for supply areas, shops or other military installations. Any land owner who thought his land was damaged to the extent that he preferred other land in exchange could give the Government a Quit Claim Deed to his land and obtain in exchange a grant of public land which would be equal in value to the land given to the Government. Now nearly all of the people who exchanged land, or their heirs, are requesting payment of damages. They state that they did not receive compensation for the damage and use of their land. Nearly every exchange gave the landowner more land than he gave to the Government. The total given to the Government in the damaged land exchange program was 240 hectares and the landowners got 482 hectares of public land in return.

Some owners of land damaged by the U. S. Military Forces decided they did not want an exchange of land. They signed waivers which usually followed one of two lines as follows:

- (1) "I, _____ certify that I do not claim any reimbursement for damage to the above listed lot. The damage is considerable but I still want to keep it. The Land & Claim this date have offered me an exchange lot which I decline."
- (2) "I, _____ certify that I do not claim any reimbursement for damage to the land listed above. The damage is so minor that it is not worth the trouble of an exchange agreement. The Land & Claim have offered me an exchange Lot which I declined."

Now, people who signed waivers such as those shown above are claiming the waivers were not translated into their own language or that they were misinformed as to what the waiver meant. In some cases involving an estate with two or more heirs only one heir would sign the waiver and now the other heirs claim they were not consulted and do not accept the action of their fellow heir as binding on them. Very few of the land trustees of Saipan, and there are approximately 150, were appointed by formal letter.

The Government made an effort to give the pre-war landowner sufficient land to extinguish all claims arising out of the use or occupancy of the land by the United States or the Trust Territory. The standard language included in the Exchange Agreements is as follows:

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, and the mutual benefits to be derived herefrom, it is agreed by and between the parties hereto as follows:

1. The PARTY OF THE FIRST PART (the landowner) shall convey to the PARTY OF THE SECOND PART (Trust Territory Government) title to the land above described as Lot No. _____, and shall release said PARTY OF THE SECOND PART, its successors and assigns, and the UNITED STATES OF AMERICA from any and all claims arising out of the use or occupancy of said land by the PARTY OF THE SECOND PART, or the Armed Forces of the United States.

When the Quit Claim Deed was signed by the landowner, it contained even stronger language with respect to release of all claims against the

United States or the Trust Territory. The usual language is as follows:

In further consideration of the conveyance of public domain lands as aforesaid, receipt whereof being hereby acknowledged, the Grantors, for themselves, their heirs and assigns hereby remise, release and forever discharge the Grantee, its successors and assigns and the United States of America, its officers, agents and employees, of and from all manner of actions, claims or demands which they or any of them ever had, now have or ever will have against either the Grantee or the United States of America by reason of any act, cause, matter or thing whatsoever arising out of the use and occupancy by Grantee or the United States of the above described lands at any time prior to the date hereof.

Some of the cases presented to the U. S. Court of Claims and many of the complaints heard with respect to Saipan land problems involve the Exchange Agreement. Perhaps there were some cases where landowners signed exchange agreements and did not understand what the agreement meant. However, in Civil Action No. 158 of the Trial Division of the High Court, Mariana Islands District, in the Matter of the Estate of VICENTE D. DE CASTRO, Deceased, by GREGORIO P. CASTRO, Son and Petitioner, a portion of the Court's OPINION reads as follows:

The Petitioner, Gregorio P. Castro, having expressly consented to these agreements (Exchange Agreements Nos. 220 and 221) and shared in the use of the lands received in exchange for them since about May 3, 1956, and these agreements having contained a provision to release the Trust Territory and the United States of America from any and all claims arising out of the use and occupancy of the land to be conveyed by the heirs under these agreements, is estopped to now claim any rent for the use of the lands so conveyed.

The complaints about the Exchange Agreements are as follows:

- (1) They were forced to sign the agreements.
- (2) The agreement was not translated for them. They did not know the agreement contained a release of claims.
- (3) All persons involved did not know an exchange agreement was being negotiated.
- (4) The exchange parcel received in return for pre-war land was smaller than the land that was promised.
- (5) They don't know where their boundaries are and in some cases their exchange parcel extends onto their neighbor's land.

The Government's reply to (1) is that land which was in the military retention areas and in the pre-war Village of Garapan had to be

exchanged or the land would be taken and the owner paid in cash either by a negotiated settlement or by condemnation. No one was forced to exchange damaged land outside the retention areas. Many owners of damaged land were offered exchanges and declined them.

With respect to the second complaint, the Government conducted its exchange program over a period of some five or six years and there were many different persons involved in it. Although a copy of the exchange agreement was not translated into Chamorro or Carolinian, persons still on Saipan who worked in the exchange program say the contents of the agreements were explained in the landowner's language. There appears to be good reason in some cases for complaints that all parties concerned were not informed about the exchange agreements and would not have agreed to the terms of the exchange had they known about it.

There are some 70 cases known that the landowners did not receive as much land as was promised during the negotiations that led to the execution of the exchange agreements. This was brought about by the fact the exchange agreements were negotiated before the exchange parcels were surveyed. Persons were shown the land and the approximate boundaries and the exchange agreements signed with the understanding that if the exchange parcel was substantially less in area than promised, additional land would be given to make up the deficiency. By "substantial" the District Land Title Officer has stated he meant if the exchange parcel was one-tenth or more of a hectare less than promised, additional land would be given. Thus far the Government has not made good its promises with respect to making up the deficiencies in the exchange program. At this point it will extremely difficult to reach an agreement with persons who failed to get all of the land they expected in the exchange program. Desirable public land on Saipan that the Government is willing to give up is very scarce. The land most of the people want to make up

their deficiencies is along the paved roads or near public beaches. This land in most cases has been marked for some important public use and the Government doesn't want to give it up.

There is a considerable body of public land the Government has no immediate use for on Saipan but it is far from the paved roads, it has no water and is removed from power lines and the villages. Nearly all of it is covered by dense jungle, it is rough and rocky, and inaccessible except by walking or by jeep.

There is good reason for some of the complaints with respect to boundaries encroaching onto private land. The failure to survey the private land and relocate pre-war boundaries on land which was not exchanged has led to some thirty known cases of encroachment on private land. How many there actually are is not known but there must be as many or even more unknown encroachments than known. Very few people are cultivating their land intensively at present and therefore unaware that an encroachment on another person's land exists.

Chapter 15, Trust Territory Code, pertains to REAL PROPERTY. Sec. 926 of the Code pertains to the duties of the Land and Claims Administrator. Office of Land Management Regulation No. 1, sets forth the procedures for the determination of ownership of lands now or formerly used, occupied or controlled by the United States or the Trust Territory. In addition to the determination of ownership, Sec. 926 of the Code requires the Land and Claims Administrator "to perform all duties pertaining to surveying, settlement, leasing, homesteading and sale of the public lands of the Trust Territory, or in anywise respecting such public land and, also, such as relate to claims arising out of or pertaining to the use or occupation of private lands by the United States Government or any of its agencies, or by the Government of the Trust Territory". (Underscoring supplied).

As all of the land of Saipan at one time was used, occupied or controlled by U. S. Military Forces, Sec. 926 of the Code and Land Management Regulation No. 1, are very important factors in Saipan Land matters. Both are included in the Appendices attached to the Saipan land cases presented to the U. S. Court of Claims. It will be noted the Land and Claims Administrator is required to take claims involving the use or occupation of private lands by the United States or Trust Territory Governments. This was done on Saipan after Determination of Ownership was concluded at the time an exchange of land was being considered. In 1955 the Saipan District Land Title Officer posted and published two public announcements as follows:

NOTICE

Land owners, whose lands have been damaged by the United States Armed Forces and who have not yet exchanged such lands but who desire to exchange, are requested to appear at the Land and Claims Office during the month of April 1955.

JOHN P. RAKER
Land Title Officer

PUBLIC NOTICE

July 15, 1955 will be the last date the Land and Claims Office will accept claims for exchange of damaged lands. Any persons desiring to exchange damaged lands and who has not already executed an exchange agreement, appear at the Land and Claims Office on or before July 15, 1955.

John P. Raker
Land Title Officer

Even before the above notices were published, there had been an attempt to close the filing of all claims pertaining to land ownership. The following notice was posted in Saipan on January 17, 1952:

Public Notice No. 1

The time limit for filing claims of land ownership, rental claims for use or occupation by the United States Government or any agency thereof or for damages to the land by reasons of such occupation, has been established as six (6) months after the publication of this notice. Claims must be filed with the Land and Claims Office, Saipan Mariana Islands.

/s/ H. H. Hedges
District Administrator
Saipan District

/s/ J. A. Wood
Claims Examiner
Saipan District

The above notice was accompanied by a translation in the Chamorro language. Land Management Regulation No. 1, which is force today, is dated June 29, 1953. It requires a closing of claim filing to be posted for one year. At the time the Public Notice No. 1, was posted, Land Management Regulation No. 1, dated January 11, 1951, accompanied the INTERIM REGULATIONS for the Trust Territory. It did not set a time limit for filing claims for land ownership, together with claims for damages or for use, Section 14 reads in part as follows:

"Every person claiming any right, title, or interest in any land that is now, or has been in the past been, used or occupied by the United States may file at any time with the land and claims officer, or, in his absence, with the Civil Administrator, a statement of claim, ... Statements of claim should include a summary of the basis of the claim and the amount of damages claimed,....."

Civil Administrators will provide for public notice of right to file claims and the desirability of filing at an early date". (Underlining supplied)

It will be noted specific authority to close the filing of claims was not included in the 1951 version of Land Management Regulation No. 1.

Closing of filing of such claims is authorized under the present Land Management Regulation No. 1, but requires one (1) year notice. Public Notice No. 1, has been ignored by some Land Title Officers on Saipan who followed Mr. Wood. The present Land Title Officer has, so far as a search of the records reveals, relied on it to restrain him from accepting any claims for land ownership for determination of ownership.

This has led to many people becoming frustrated and disgruntled because they feel they have a legitimate claim for land ownership and can't get it heard. There is some justification for the present Land Title Officer's refusal to hold hearings and make ownership determinations with respect to land ownership. It appears that on Feb. 7, 1961, at a conference in the Office of the Saipan District Land Title Officer, a representative of the Officer in Charge of Construction, Commander Noyal Forces, Marianas, advised the Land Title Officer that nothing could be done about ten new land claims which had been submitted to the Land Title Officer. He said that acceptance of new claims would mean that the Land Office could not complete its work and that such new claims could seriously impede the homesteading program. This has been interpreted by the Marianas District Land Title Officer to mean that no new title determinations can be made at any time. The Officer in Charge of Construction referred to above, was the Land and Claims Administrator for the Saipan District from 1953 until Saipan District was returned to Department of the Interior Administration in 1962.

A great deal of confusion has arisen in Saipan land matters because of the inability to reconstruct the records of land transactions which took place during the Japanese Administration. There is a popular belief held by many Saipanese that Japanese could not make legal land purchases. This is not true as Japanese Administration did modify the law in 1951 to permit alienation of land. The conditions for a legal sale of land to a Japanese were difficult to meet but several legitimate sales were completed.

TRUST TERRITORY POLICY LETTER P-1

Much misunderstanding had developed with respect to Saipan land matters as a result of misinterpreting the contents of Trust Territory Policy Letter, P-1, issued by the then Deputy High Commissioner on December 29, 1947. The letter outlined land policy and set guidelines with respect to how to determine the validity of land transfers made in the past.

This letter has been a key factor in many court cases involving District Land Title Officers' determinations concerning land sold by local people to Japanese. In Civil Action No. 190, Trial Division of the High Court, Palau District, BAULES SECHELONG, Appellant, vs. TRUST TERRITORY OF THE PACIFIC ISLANDS and its ALIEN PROPERTY CUSTODIAN, Appellees, the Court considered an appeal from the District Land Title Officer's determination that the appellant's land had been sold to a Japanese corporation in 1939. The Court modified some of the language in the Determination of Ownership but upheld the District Land Title Officer's determination that the sale of the land was valid and binding. In the OPINION of the Court, "On the merits, this appeal is governed primarily by the Deputy High Commissioner's Trust Territory Policy Letter P-1, of December 29, 1947. Under the policy announced therein, land transfers to Japanese corporations, since March 27, 1935 (the time Japan left the League of Nations), are subject to review, but the letter further provides:

"Such transfer will be considered valid unless the former owner (or heirs) establishes that the sale was not made of free will and the just compensation was not received."

The court considers that this sale was as voluntary as any sale can be to a corporation enjoying the powers of eminent domain the court holds that both the Ngeribkal clan and the "Yeb" lineage within it acquiesced in the sale of the land in question to Nanden and that the appellant has not sustained the burden of proving that those on behalf of whom he claims did not receive just compensation.

In 1966 the Mariana Islands District Legislature established a Select Committee to investigate land problems in the Mariana Islands District. The Committee proceeded with its work and made a report on February 26, 1968. Some 76 complaints were investigated by the Committee and among them were cases involving sale of land to Japanese Nationals. One of the complaints involved approximately 1.15 hectares which was sold to N.K.K. for \$379.50 on December 12, 1936. The complainant stated the land was leased but the N.K.K. records established the land had in fact been sold. The findings of the Select Committee were as follows:

Land was sold to NKK after the Japanese withdrew from the League of Nations, which makes the sale illegal. In line with Trust Territory Policy Letter P-1, dated December 19, 1947, this sale was null and void."

SURVEYING

As stated heretofore, the excellent Japanese land survey of Saipan which was completed in 1939, after many years of hard work, was almost totally lost, together with records and maps. The U. S. Military Forces decided to establish an entirely new survey system. Observations were made on two nights and a total of 63 stars observed to locate a concrete pier on Managaha Island, a short distance from the main island of Saipan, as the starting point of a grid which was put down on Saipan for survey purposes.

A land survey program for Saipan District was initiated in 1949. In 1950--51, the surveyors established triangulation and secondary controls. Also they established a plane coordinate grid system based on a polyconic projection of one of the triangulation stations. By 1957 they had surveyed and monumented 18 military retention areas totalling 12,702 acres. They established the center-lines of all paved highways and established the perimeters of sites for eight island villages.

Under the Saipan land program, exchange parcels and agricultural homesteads were assumed to be government land. These parcels of un-surveyed public domain land are scattered throughout the island outside the military retention areas. Interspersed among the exchange and homestead parcels are several hundred parcels of private land, the boundaries of which are not definitely known.

Before the surveying of exchange and agricultural homesteads was started, it was agreed that the private lands should be surveyed first. For some reason, not known to present employees of the Land Management Office, the survey of private land was not accomplished.

It still has not been done to this time except for a few cases where court action was involved.

Exchange parcels in the village areas were surveyed before the deeds were granted. Therefore, the village lot boundaries do not pose a serious problem. However, the exchange parcels granted in agricultural lands, together with agricultural homestead parcels, pose problems the magnitude of which is not known. So little of Saipan agricultural land is in use today, possibly no more than 10% of the total arable land is under cultivation, many encroachments exist but are unknown. Some of these problems are creating trouble among landowners today and more will in the future as the population pressure on the land increases. Today the population of Saipan is approximately 10,000 and growing rapidly. To accelerate the homestead program the Navy Administration in 1957 decided to have aerial photographs made of the entire island and use them as the basis for describing homestead parcels. The use of the photo-contour maps enabled the Land Office officials to locate the approximate boundaries of the homestead parcel. Homesteaders were shown the approximate corners of their land and cautioned to plant well within the probable boundaries. However, many homesteaders have planted over their boundaries and some of them have been successful in getting the Land Title Officer to certify their encroachments on other land as being within their homestead. This has increased and complicated the work of the surveyors and will almost surely result in more complex land problems in the future. Perhaps long after the present problems have been either resolved or forgotten, the failure to survey the private lands before granting exchange parcels and homesteads in the public domain will remain to plague Land Management officials and the courts for many years to come.

THE HIGHWAY AND UTILITIES PROBLEM

Some of the present Saipan land cases presented to the U. S. Court of Claims involve rights-of-ways for highways, water pipelines and power lines.

There are 65 known cases of where paved roadways cross private land. Approximately 20 hectares of land is involved.

In some instances the Navy took easements where the roadways crossed private land. Such cases were where the roadways were wanted as a part of the military land retention program. In some cases no easement was obtained for the use of private land as a highway. However, the landowners did have the opportunity to make a claim for the land taken up by the road and in many cases they decided not to exercise the right to exchange the pre-war land for undamaged land in the public domain. Note the type of release they signed which is set forth earlier in this report.

There is evidence in the Marianas District files that the Navy did intend to exchange public land for the private land taken up by the paved roadways. However, as the exchange program proceeded some people were found who did not want to give up their pre-war land even if a roadway was on it that was not there before the war.

The Marianas District Administration has made a list of all the private lands involved with the paved roadways. The area of land taken up by the roadways has been computed fairly accurately-if the land parcels are actually where landowners think they are. Remember, private lands have NOT been surveyed to determine their actual boundaries. The District Administration has recommended that Headquarters budget funds for payment to the landowners, regardless of the fact some of the landowners signed easements or waivers or refused an offer of exchange for undamaged land. So far Headquarters has not been impressed with the Marianas recommendation with respect to payment for the rights-of-ways on any of the roadways.

Most of the water and electric lines are within a highway rights-of-way.

In such cases the problem of all the utilities and the highways are identical. However, there are some water and electric lines that are not along the roadways.

The private lands they cross are known only approximately. Again, the lack of a survey of private lands makes it impossible to determine with accuracy just whose land is involved and how much.

CONCLUSION

In conclusion, it should be apparent that Saipan land problems are growing more complex with the passage of time. More and more people are dying who are the only sources of reliable information as to where pre-war boundaries existed. More people on Saipan make for greater pressures on the land. Where only two years ago choice lots could be had on the paved roadways with direct access to power and water for \$250 to \$500, the same lots today sell at \$2,000, or even more. (Lots of 7,500 to 10,000 sq. ft.). With the increase in funds being made available to the Trust Territory by the United States Government, the increase of activity on Saipan has caused land values to skyrocket. The readily apparent weaknesses in Saipan matters resulted from a combination of factors. Ten of the more outstanding factors are as follows:

1. Failure to reestablish the boundaries of all land parcels as delineated by the Japanese land surveys.
2. Failure to make determinations of ownership of all pre-war land parcels.
3. The lack of complete records with respect to the U. S. Armed Forces' actions in regard to land matters.
4. The misguided attempt of the Saipan Land Title Officer and the District Administrator in 1952 to close the filing of claims with respect to land ownership.
5. The failure to replace the Saipan District Land Title Officer with a fully qualified out-of-district Land Title Officer when the office became vacant at the time Saipan was transferred to Department of the Interior administration in 1962.

6. Failure to solve the war damage claims problem even to this day.
7. Failure to translate and index the pre-war land records that were recovered.
8. Failure to establish and administer a system of determining the legal heirs of deceased landowners shortly after the death of a landowner.
9. Failure to solve the problems relating to public highways, pipelines, electric lines, and related utilities, which cross private lands.
10. The failure of officials in the higher administrative positions to comprehend and appreciate the importance of solving land matters.

With talk of the possibility of United States troops returning to Saipan and Tinian sometime in the future, land speculation has reached its all-time post-war peak. Landowners are asking and sometimes getting astronomical rentals for lots that are still in boondocks and until two years ago were considered almost worthless. Asking rentals of \$1 per square meter per year are common for choice beach front lots in Garapan Village. Very few if any have rented at that price, but the mere fact landowners are turning down offers of 15¢ and 20¢ per square meter per year with confidence the rental price will soon reach their hoped for \$1 per square meter per year should show why so many people are making desperate efforts to regain their pre-war lots.

The six cases presented to the U. S. Court of Claims by Attorney William B. Nabors are examples of the intense emotional feelings the Saipanese have with respect to their land. Many of the pre-war owners have died and the heirs today know very little or nothing of the facts concerning their ancestors' lands - and they care less. They simply want "their land" returned.

A bright ray of hope has appeared on the scene with respect to clarification and settlement of some of the land problems of Saipan. It is Public Law 2-1, commonly referred to as "The Land Commission Act," passed during the Second Regular Session of the Congress of Micronesia, and contained in the Trust Territory Code, Sections 1025-1044, inclusive. A Senior Land

Commissioner has been employed for the Mariana Islands District and he has started to carry out his duties and responsibilities on Saipan. This will be a slow and tedious operation but when his work has been completed on Saipan, legal ownership of all land parcels will have been determined and titles registered according to the law. As this work calls for surveying all the land to which title is registered, the mistake made in the past to set aside the surveying of private lands will be corrected insofar as it can be corrected at this late date. This will provide an opportunity for people to be heard who maintain they own land but have not had their ownership confirmed by the District Land Title Officer.

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