IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

TIKEI CLAN, rep. by JOE NGIRACHELCHONG RENGECHEL and TIKEI CLAN, rep. by MASAO BEDOR and TOSIE BEDOR KELDERMANS,
Appellants,
v.
REPUBLIC OF PALAU,
Appellee.

Cite as: 2026 Palau 7
Civil Appeal No. 25-004
Appeal from Civil Action No. 20-102

Decided: May 12, 2026

Counsel for Appellant Joe Rengechel.....	Johnson Toribiong, Esq.
Counsel for Appellants Bedor and Keldermans.....	C. Quay Polloi, Esq.
Counsel for Appellee	Christiaan Mitchell, AAG

BEFORE: FRED M. ISAACS, Associate Justice, presiding
ALEXANDRO C. CASTRO, Associate Justice
KEVIN BENNARDO, Associate Justice

Appeal from the Trial Division, the Honorable Lourdes F. Materne, Associate Justice, presiding.

OPINION

PER CURIAM:

[¶ 1] This appeal arises from the Trial Division's Final Judgment filed on September 15, 2025, determining that Tochi Daicho Lot 1447 is owned by Defendants—the Republic of Palau and John Does 1, 2, 3, 4, and 5.

[¶ 2] Plaintiff-Appellant Tikei Clan, rep. by Joe Ngirachelchong Rengechel, argues that in dismissing this case based on the statute of limitation,

the trial court violated the Takings Clause in Article IV, § 6 of the Constitution of the Republic of Palau.

[¶ 3] Intervenor-Appellant Tikei Clan, rep. by Masao Bedor and Tosie Bedor Keldermans, argues that (1) summary judgment was improper where the ROP failed to prove by undisputed facts each element of adverse possession; (2) the trial court erred by assuming hostility, exclusivity, and continuity when these were genuinely disputed; (3) cadastral paper title and public facilities cannot substitute the element-by-element proof of adverse possession; and (4) the trial court erred by dismissing the intra-clan motion for partial summary judgment as moot.

[¶ 4] For the reasons set forth below, we **DISMISS** Plaintiff-Appellant's appeal and **AFFIRM** the Trial Division's determination that the ROP owns Lot No. 1447.

BACKGROUND

[¶ 5] The parties in this appeal dispute the ownership of Lot 1447, which is located in Meyuns, Koror, and is the site of numerous public buildings. On August 3, 2020, Plaintiff-Appellant filed suit against the ROP, claiming to represent Tikei Clan as chief *Spesungel*. Plaintiff-Appellant claimed that pursuant to the Judgment in Civil Action 592-89, entered on July 30, 1998, Tikei Clan owns Lot 1447 and that the ROP has trespassed by possessing the land.

[¶ 6] On March 31, 2021, Intervenor-Appellants filed an unopposed motion to intervene in the suit, which was accepted by this Court in its Order Granting Motion to Intervene and Ordering Status Conference filed on October 20, 2021. Intervenor-Appellants similarly claimed that the ROP trespassed on Lot 1447 but further alleged that Bedor is the rightful *Spesungel* of Tikei Clan.

[¶ 7] On April 29, 2022, the ROP filed Motions for Summary Judgment against both Plaintiff-Appellants and Intervenor-Appellants, presenting a Certificate of Title identifying that the ROP and its predecessors have been in possession of Cadastral Lot No. 010 A 01 since at least 1973. The ROP admitted that an unknown portion of Lot 1447 was nestled within Cadastral Lot No. 010 A 01 but argued that it nonetheless acquired the land through

adverse possession. On October 6, 2023, the Trial Division issued an order granting the ROP's motions for summary judgment and determining that Plaintiff-Appellant and Intervenor-Appellants' claims to the portion of Lot 1447 within Cadastral Lot No. 010 A 01 were extinguished. Both Plaintiff-Appellant and Intervenor-Appellants appealed the Trial Division's October 2023 Order.

[¶ 8] In our Order Dismissing Appeal decided on May 3, 2024, we dismissed the appeal as premature as it was not a final judgment and did not fully dispose of all the claims among all parties. Thereafter, the Trial Division issued an Order Dismissing Remaining Claims as Moot on March 7, 2025, and a Final Judgment on September 15, 2025, determining that Lot 1447 is settled as owned by the ROP and John Does 1, 2, 3, 4, and 5. Appellants appeal this determination.

STANDARD OF REVIEW

[¶ 9] We review matters of law de novo, findings of fact for clear error, and exercises of discretion for abuse of that discretion. *Obechou Lineage v. Ngeruangel Lineage of Mochouang Clan*. 2024 Palau 2 ¶ 5.

[¶ 10] Summary judgment is only proper when the pleadings, affidavits, and other papers show no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. ROP R. Civ. P. 56(c). When considering a motion for summary judgment, the court must consider all evidence and inferences in the light most favorable to the nonmoving party. *ROP v. Reklai*, 11 ROP 18, 21 (2003). The Appellate Division reviews appeals from summary judgment de novo. *Id.* In doing so, our review is plenary, considering both whether there is no genuine issue of material fact and whether substantive law was correctly applied. *Mesubed v. ROP*, 10 ROP 62, 64 (2003).

DISCUSSION

I.

[¶ 11] Plaintiff-Appellant argues that the trial court violated Article IV, Section 6 of the ROP Constitution by dismissing the case based on the statute of limitations. Under the Takings Clause of the ROP Constitution, "[t]he government shall take no action to deprive any person of life, liberty, or

property without due process of law nor shall private property be taken except for a recognized public use and for just compensation in money or in kind." ROP Const. art. IV, § 6.

[¶ 12] However, before reaching the merits of Plaintiff-Appellant's arguments, we must first address the adequacy of Plaintiff-Appellant's Opening Brief. Plaintiff-Appellant attempts to incorporate his Opening Brief from Civil Appeal No. 23-033 by reference. Such incorporation is improper. Our Appellate Rules provide clear and detailed instructions on the structure and substance required of an appellate brief; allowing parties to sidestep these requirements by incorporating briefs from other cases would be, at best, an inadequate substitute and, at worst, impose an undue obligation on the Court and parties. *See* ROP. R. App. P. 28.

[¶ 13] Appellees argue in their Response that Plaintiff-Appellant's appeal should be dismissed for manifestly inadequate briefing. We agree. This Court has repeatedly held that a party asserting legal error on appeal must cite to relevant legal authority in support of his or her argument, failing which the argument will not be considered. *See Enano v. ROP*, 2022 Palau 21 ¶ 7 (citing *Aimeliik State Pub. Lands. Auth. v. Rengchol*, 17 ROP 276, 282 (2010)). Similarly, we have repeatedly and consistently held that we will not consider "claims brought before us that are not well developed and supported by facts on the record or law." *Uchelkumer Clan v. Koror State Pub. Lands Auth.*, 2022 Palau 18 ¶ 7.

[¶ 14] Plaintiff-Appellant has not supported the arguments made in either its Opening Brief or Reply Brief with citations to legal authority; instead, the briefs rely on broad legal assertions and vague references to ROP Const. art. IV, § 6. Not only does Plaintiff-Appellant fail to bring to the Court's attention Palauan case law to support its inverse condemnation, enforceability, and estoppel arguments, but Plaintiff-Appellant also fails to provide any basis for its constitutional interpretation of the Takings Clause.

[¶ 15] The only legal citation raised by Plaintiff-Appellant concerns the twenty-year statute of limitations argument. However, even then, Plaintiff-Appellant simply cites to 14 P.N.C. § 402(a)(2) and *Brikul v. Matsutaro*, 13 ROP 22 (2005) as legal authority for its conclusory statements. Even liberally construed, Plaintiff-Appellant's Opening Brief is severely lacking in any legal

analysis and falls far short of the standard expected of experienced appellate counsel.

[¶ 16] Pursuant to ROP R. App. P. 28(e), this Court may "in its discretion, decline to consider factual arguments or references to the record not supported by a pinpoint citation to the appendix." Given the sparse nature of the arguments raised by Plaintiff-Appellant and the lack of an attached appendix, we decline to consider Plaintiff-Appellant's factual arguments.

[¶ 17] Additionally, we reject Plaintiff-Appellant's argument on judicial notice, as raised in its Reply Brief. ROP R. Evid. 201 provides that a court may take judicial notice of an adjudicative fact, whether requested or not, at any stage of the proceeding. A properly noticeable fact must not be subject to reasonable dispute, meaning it is either (1) generally known within the territorial jurisdiction of the court, or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. ROP R. Evid. 201(b). Plaintiff-Appellant has misapplied the law as the facts asserted by Plaintiff-Appellant regarding land use are subject to reasonable dispute. Therefore, judicial notice does not apply.

[¶ 18] While constitutional rights are important, so is properly presenting arguments so that we may review them. Plaintiff-Appellant cannot simply raise constitutional arguments to circumvent procedural shortcomings. Consistent with this Court's usual practice, we **DISMISS** Plaintiff-Appellant's appeal for wholly inadequate briefing and decline to consider the merits of the arguments, such as they are, presented in its briefs.

II.

[¶ 19] Appellees similarly argue that this Court should dismiss Intervenor-Appellants' appeal for their failure to cite to the record. Although Intervenor-Appellants fail to include specific citations to the record in violation of Rule 28(a)(7) and 28(e), their briefs still provide a thorough factual background of the case and the facts relied upon in their arguments are easily discernable. Therefore, while it is within the Court's discretion to ignore Intervenor-Appellants' arguments for want of record support, we decline to dismiss Intervenor-Appellants' appeal on this basis.

[¶ 20] Turning to the merits, Intervenor-Appellants first argue that summary judgment was improper because the ROP failed to prove by undisputed facts each element of adverse possession. To gain title by adverse possession, a party must show, by clear and convincing evidence, an actual, open, visible, notorious, continuous, and hostile possession under a claim of right or title for the requisite period of time. *See Seventh Day Adventist Mission of Palau, Inc. v. Elsau Clan*, 11 ROP 191 (2004) (citing *Andres v. Desbedang Lineage*, 8 ROP Intrm. 134, 135 (2000)). All elements are equally necessary to establish adverse possession and the claim will fail in the absence of any one element. *Id.* A party claiming title by adverse possession bears the burden to affirmatively prove each element of adverse possession. *Id.*

[¶ 21] The trial court's primary reason for granting summary judgment was due to the lapse of the twenty-year period for Plaintiff-Appellant and Intervenor-Appellants to contest the ROP's possession. We have consistently applied a twenty-year prescriptive period for adverse possession in Palau in line with the relevant statute of limitations. *See PPLA v. Salvador*, 8 ROP Intrm. 73, 77 (1999) ("Adverse possession and the statute of limitations must be considered together"); *Children of Ngiramechelbang Ngeskesuk v. Brikul*, 14 ROP 164, 166 (2007).

[¶ 22] Intervenor-Appellants argue that since it is unclear when the elements of adverse possession were established, the twenty-year statutory period cannot elapse. *See Koror State Pub. Lands Auth. v. Idong Lineage*, 17 ROP 82 (2010) ("Possession with the consent of the owner is not hostile and therefore does not commence the running of the statute of limitations"). Intervenor-Appellants first argue that the hostility of Appellee's use is genuinely disputed as permission was granted to the ROP to use the land. Additionally, Intervenor-Appellants argue that the public use of the land cannot satisfy the exclusivity element of adverse possession as "[a] reasonable factfinder could conclude that the government's use was shared or permissive, not exclusive." These arguments are unconvincing.

[¶ 23] As noted by the Trial Division, Tikei Clan did not present any evidence that they gave the ROP permission to use the land apart from its interrogatory answers. Regardless of whether the Trial Division improperly discounted the substance of Intervenor-Appellants' interrogatory answers, we

hold that it was, at most, harmless error. *See Sebal v. Tengadik*, 7 ROP Intrm. 149 151 (1999). The alleged permissions as noted in Intervenor-Appellants' interrogatory answers all occurred outside of the relevant adverse possession period. Therefore, the factual record before us does not show that permission was given by Tikei Clan to the ROP, and the latter's open, visible, notorious, continuous, and exclusive use of Lot 1447 since the 1998 judgment of *Olngebang Lineage*, Civil Action No. 592-92 is sufficient to prove adverse possession.

[¶ 24] Appellees also call into question the contradictory nature of Appellants' arguments, which is that the ROP has simultaneously trespassed on Lot 1447 while not satisfying elements required for adverse possession. While neither of the Appellants address the issue of trespass in their appeals, Appellees' argument is not well founded. Trespass is a legal action rooted in a plaintiff's right to possess real property and involves invasions of the plaintiff's interest in the exclusive possession and physical condition of the land. *See Anastacio v. Palau Pub. Utils. Corp.*, 18 ROP 22, 25 (Tr. Div. 2011). As such, it is entirely possible that a party could trespass on property without having exclusive and continuous use of the property which is required under adverse possession.

[¶ 25] Intervenor-Appellants further aver that certificates of title to Lot 010 A 01 and the presence of public facilities do not substitute for proof of hostile, exclusive possession. Citing *Koror State Pub. Lands Auth. v. Idong Lineage*, 17 ROP 82 (2010), Intervenor-Appellants argue that leases are not a substitute for hostile possession. However, we decline to read the holding of that case as extending that far. In the 2010 *KSPLA* case, this Court found that the leases were insufficient to prove adverse possession as there was no actual, hostile possession by KSPLA or its lessees.

[¶ 26] The facts presented in the case before us show that Appellees have openly used the lot as the location of various public buildings, including the Belau National Hospital. Therefore, the cadastral paper title and public facilities are not so much substitutes for the element-by-element proof of adverse possession, as direct evidence that these elements have been satisfied.

[¶ 27] Therefore, we **AFFIRM** the trial court's determination of ownership over Lot 1447 as all the elements of adverse possession are present.

III.

[¶ 28] Intervenor-Appellants also argue that the clan-title dispute is legally distinct from the issues addressed by the Trial Division's summary judgment and remains live. Intervenor-Appellants filed a Motion for Partial Summary Judgment against Plaintiff-Appellant on April 29, 2022, requesting the trial court dismiss Plaintiff-Appellant's claims. Intervenor-Appellants argued in their Motion that Plaintiff-Appellant's claims are barred by *res judicata* as he was previously adjudicated not to be and cannot now claim to be Chief *Spesungel* of Tikei Clan. In the Final Judgment filed on September 15, 2025, the Trial Division declined to adjudicate the customary dispute over the *Spesungel* title and dismissed it as moot since the question of ownership of Lot 1447 was settled under the twenty-year statute of limitations.

[¶ 29] "A decision by a trial court [whether] to intervene in a customary matter and issue a declaratory judgment that a person holds a position of traditional leadership is a matter committed to the sound discretion of the trial court and cannot be reversed absent an abuse of that discretion." *Filibert v. Ngirmang*, 8 ROP Intrm. 273, 276 (2001). The jurisdictional standard for declaratory judgments is "whether the person whose standing is challenged is a proper party to request an adjudication of a particular issue." *Koror State Legislature v. KSPLA*, 2017 Palau 28 ¶ 30. This requires the court to consider "whether the plaintiff has an interest in the adjudication so as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends and to ensure the court will not be asked to decide ill-defined legal and equitable questions." *Id.* (internal quotations omitted).

[¶ 30] Applying the jurisdictional standard to the facts before us, determining who the rightful bearer of the title *Spesungel* was appropriate for declaratory relief. Thus, the trial court incorrectly denied the claims on the merits, without first addressing the contested standing of Plaintiff-Appellant. Because the issue of standing is a prerequisite to the court's authority and jurisdiction to address substantive issues, the Trial Division should have first resolved the question of standing. Nonetheless, the trial court addressed this procedural error in its Order Dismissing Intervenor Tikei Clan's Dispositive Motion against Plaintiff filed on March 6, 2025, stating that the issue "has been settled on its substance, and the Court sees no reason to step into an internal

clan dispute if there is no substantive claim at issue still before the Court." We agree.

[¶ 31] It is well-settled that the selection of a clan title bearer is, in the first instance, the clan's responsibility and not the judiciary's. *See Mekui v. Kaiichi*, 2025 Palau 10 ¶ 23; *Sato v. Ngerchelong State Assembly*, 7 ROP Intrm. 79, 81 (1997) ("'The selection of a title bearer is the Clan's responsibility, not the Court's."); *Filibert v. Ngirmang*, 8 ROP Intrm. 273, 276 (2001) ("Although the courts have constitutional authority over matters presenting issues of customary law, . . . it remains true that disputes over customary matters are best resolved by the parties involved rather than the courts.") (citation omitted).

[¶ 32] Nonetheless, the issue of Plaintiff-Appellant's standing is an attempt by Intervenor-Appellants to get the Court to adjudicate on customary matters which no longer have any bearing on the substantive legal dispute at hand. This is especially so as it is not the Appellees who are contesting standing, but the Intervenor-Appellants. A resolution of the *Spesungel* title dispute is not currently necessary to the present litigation regarding Lot 1447.

CONCLUSION

[¶ 33] For the foregoing reasons, we **DISMISS** Plaintiff-Appellant's appeal and **AFFIRM** the Trial Division's determination that the ROP owns Lot No. 1447.

SO ORDERED, this 12th day of May 2026.