IN THE SUPREME COURT OF GUAM

ESTATE OF SEVERA PANGELINAN GOGUE and TERESITA PANGELINAN LATOUR,
Plaintiffs-Appellees,

v.

JESUS T. PANGELINAN, DELFINA P. FLORES, HEIRS OF JOSE T. PANGELINAN, to wit, ANA B. PANGELINAN, JOHN AB PANGELINAN, JOANN P. FULLERTON, HEIRS OF REGINA P. DUENAS, to wit, JOSEPH P. DUENAS, PAULINA D. MANIBUSAN, CECILIA DUENAS GOGUE, JESUSA TINA DUENAS BERNARDO, MICHAEL JOHN P. DUENAS, and HEIRS OF MARIA P. DUENAS, to wit, RORY W.D. KOSAKA, KELTON W.D. KOSAKA, AMOS B.D. KOSAKA, MAYNE D. KOSAKA, RICHARD D. KOSAKA, JEFFREY D. KOSAKA, WAYNE D. KOSAKA, ALEXANDER D. KOSAKA, SANDRA DK DELEON GUERRERO, MARK B.D. KOSAKA, CLAUDIA K. OCAMPO, and JESSE F. PANGELINAN, and ALSO ALL OTHER PERSONS, UNKNOWN, CLAIMING ANY RIGHT, TITLE, ESTATE, LIEN OR INTEREST IN THE REAL PROPERTY DESCRIBED AS ESTATE 471, DEDEDO, GUAM, ADVERSE TO PLAINTIFFS' OWNERSHIP, OR ANY CLOUD UPON PLAINTIFFS' TITLE THERETO,
Defendants-Appellants.

Supreme Court Case No.: CVA18-012
Superior Court Case No.: CV0347-16

OPINION

Cite as: 2020 Guam 26

Appeal from the Superior Court of Guam
Argued and submitted on November 5, 2019
Hagåtña, Guam

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BEFORE: KATHERINE A. MARAMAN, Chief Justice; ROBERT J. TORRES, Associate Justice; and JOHN A. MANGLONA, Justice *Pro Tempore*.[1]

PER CURIAM:

[1] The Guam Ancestral Lands Commission ("GALC") deeded property to an ancestral owner's six children in their own names. Since the children are half-siblings, a dispute arose over whether the property should be divided according to the language of the deed from GALC or under the Probate Code. The Superior Court found that the Probate Code controls and that the two youngest children were entitled to a greater share of the property. The older children appeal this ruling and argue they are all entitled to equal shares based on the language of the deed from GALC. For the following reasons, we reverse the judgment of the Superior Court and remand for proceedings not inconsistent with this opinion.

I. FACTUAL AND PROCEDURAL BACKGROUND

[2] Juan Unpingco Pangelinan owned a piece of land known as Estate 471 in Dededo, Guam. With his first wife, Maria T. Pangelinan ("Maria T."), Juan had four children: Jose Pangelinan, Regina Pangelinan Duenas, Delfina Pangelinan Flores, and Jesus Pangelinan. After Maria T. passed away, Juan married Maria Castro Pangelinan ("Maria Castro"). They had two children: Severa Pangelinan Gogue and Teresita Pangelinan LaTour.

[3] Juan died during World War II, and his estate entered probate in 1945. He was survived by Maria Castro and all six of his children.[2] In September 1952, while the probate was still pending, the United States Government condemned Estate 471 and paid compensation to Juan's

[1] The signatures in this opinion reflect the titles of the justices when this matter was argued and submitted.

[2] Jose and Regina are now deceased, and their estates and heirs are named as defendants. Jesus also passed away in 2018. While no party has filed a Suggestion of Death on the record under Guam Rule of Appellate Procedure ("GRAP") 23, Appellees noted Jesus's death in their response brief. Under GRAP 23(a)(1), we direct the Superior Court to make the proper substitutions on remand and to address any related issues that may arise.

estate. The condemnation judgment was filed in Civil Case No. 10-50 in the District Court of Guam.

[4] In November 1952, the estate was settled, and a Decree Settling Final Account of Administratrix and Final Distribution was issued. The Decree stated that Maria Castro was to receive one-third of the rest and residue of Juan's estate including any after-acquired and later-discovered property of the estate. The Decree also provided that Juan's six children would share equally in the remaining two-thirds of the Estate. Maria Castro died in 1963.

[5] In 2001, the U.S. Government transferred Estate 471 to the Guam Economic Development Authority ("GEDA") as part of a statutory scheme to return excess lands owned by the federal government. GEDA transferred the land to GALC. GALC issued a final written decision and order finding that Juan's six children are the ancestral landowners of Estate 471. Based on this decision, GALC deeded the property to "Estate(s) of Jose T. Pangelinan, Regina P. Duenas, Delfina P. Flores, Jesus T. Pangelinan, Severa C. Pangelinan, and Teresita C. Pangelinan" and did not mention apportionment. Record on Appeal ("RA"), tab 1 (Compl. Quiet Title, Apr. 22, 2016), Ex. 7 (Quitclaim Deed and Aff. Transferee, Sept. 16, 2004). Along with the deed, Delfina Flores on behalf of the siblings filed an Affidavit of Transferee, which reads:

> The undersigned [Delfina P. Flores] does not assert that s/he is a Grantee claiming, entitled to, or possessing any ownership interest in the above described property, but is acting on behalf of all the transferees/heirs of Jose T. Pangelinan, Regina P. Duenas, Delfina Flores, Jesus T. Pangelinan, Severa C. Pangelinan, and Teresita C. Pangelinan in order that the deed from the Guam Ancestral Lands Commission may be duly recorded in the records of the Department of Land Management as property that is owned in common by the heirs as their interest may be determined by a court of competent jurisdiction.

Id.

[6] In 2004, following the execution of the deed from GALC to the six children, Jesus Pangelinan and his son Jesse F. Pangelinan were appointed Administrators of Juan's estate in

Probate Case No. PR0027-12. The probate was opened to distribute Estate 471. The Administrators contracted for legal services with John S. Unpingco and for surveying services with Generalismo Villaflores. The Administrators attempted to survey, subdivide, and distribute Estate 471 to Juan's six children in equal shares.

[7] The Administrators later dismissed the probate, claiming the property was not returned to Juan's estate but conveyed by GALC to Juan's six children.

[8] In 2016, Severa's estate and Teresita filed a Complaint to Quiet Title in Estate 471 and included claims for partition, breach of fiduciary duties, and declaratory judgment. The two younger children alleged that because their mother survived Juan, they were entitled to twenty-eight percent of Estate 471 and the older four children were entitled to eleven percent each. Severa's estate and Teresita also asserted that they were not liable for the professional services rendered during the probate action.

[9] After a one-day bench trial, the Superior Court found for Severa's estate and Teresita. The trial court declared Severa's estate and Teresita to each have a twenty-eight percent interest in Estate 471. It also held that Severa's estate and Teresita were not liable to anyone for work or services stemming from the probate.

[10] The Superior Court entered a judgment consistent with its findings. The older children, or their estates, timely appealed. On appeal, this court *sua sponte* ordered briefing regarding jurisdiction under *Crawford v. Antonio B. Won Pat International Airport Authority*, 917 F.3d 1081 (9th Cir. 2019).

II. JURISDICTION

[11] This court has jurisdiction over final judgments of the Superior Court. 48 U.S.C.A. § 1424-1(a)(2) (Westlaw through Pub. L. 116-223 (2020)); 7 GCA §§ 3107, 3108(a), 25102(a) (2005).

III. STANDARD OF REVIEW

[12] The effectiveness of a deed issued by the Guam Ancestral Lands Commission and interpreting its terms are questions of law reviewed *de novo*. *See Aflague v. Moylan ex rel. Estate of Moylan*, 2020 Guam 18 ¶ 9; *Guam Resorts, Inc. v. G.C. Corp.*, 2013 Guam 18 ¶ 34; *see also Gutierrez v. Guam Power Auth.*, 2013 Guam 1 ¶¶ 8, 20. The interpretation of a statute is a question of law, which we review *de novo*. *Port Auth. of Guam v. Civ. Serv. Comm'n (Javelosa)*, 2018 Guam 9 ¶ 15.

IV. ANALYSIS

[13] This case requires us to determine the legal effect of a deed issued by GALC to six children of an ancestral owner. Unlike our prior cases, the land here was not deeded to the estate of the ancestral owner—i.e., the person who owned the land when the U.S. Government condemned it. GALC deeded the property directly to the estates of the six children of the original owner. The four older children and the two younger children are half-siblings and dispute whether the younger children are entitled to a greater share of the land because their mother survived the children's father.

[14] We start our analysis with a discussion related to GALC's authority and the issues presented by *Crawford*, 917 F.3d 1081. In *Aflague v. Moylan ex rel. Estate of Moylan*, 2020 Guam 18 ¶¶ 13-17, we found that a party can challenge a GALC action either through a direct appeal or a collateral attack on GALC's authority. However, *Aflague* does not apply here because neither party brought either a direct or collateral attack to GALC's deed. The deed presumptively transfers the property to the six children in equal shares, and there is no clear and convincing evidence to overcome this presumption.

A. Because Neither Party Brings a Direct Challenge or Collateral Attack to the Authority of GALC to Adjudicate the Ancestral Land Claim, We Need Not Reach the Question Presented in *Crawford*

1. Defects in the rules and regulations generally must be brought on direct review of an agency action

[15] Generally, a party wanting to challenge an improper action of an agency must seek judicial review in the Superior Court. *See* 5 GCA § 9240 (2005) ("Judicial review may be had of any agency decision by any party affected adversely by it."); *see also Carlson v. Perez*, 2007 Guam 6 ¶ 65 ("[T]he proper way for classified employees of the government of Guam or any of its instrumentalities, corporations or agencies to utilize the right of judicial review of CSC decisions is by filing a 'Petition for Judicial Review.'"); *cf. N.Y. Republican State Comm. v. SEC*, 799 F.3d 1126, 1131-33 (D.C. Cir. 2015); *Key Haven Associated Enters., Inc. v. Bd. of Trs. of Internal Improvement Tr. Fund*, 427 So. 2d 153, 159 (Fla. 1982) ("A petition to the district court for review of agency action is necessarily taken when an aggrieved party wishes to assert that the agency action was improper."). Objections to an agency's failure to properly follow or apply rules and regulations must be raised in a timely manner for it to be reviewed. *Guam Dep't of Educ. v. Civ. Serv. Comm'n (Somerfleck)*, 2019 Guam 21 ¶¶ 9-10. However, this case does not arise on direct review of an agency action. Instead, this case involves reviewing the legal effect of a final agency action.

[16] Related to this point, this court inquired into GALC's jurisdiction based on the lack of duly enacted rules and regulations as recognized by the Ninth Circuit in *Crawford*. *See* Order (May 1, 2019). While *Crawford* may be a significant issue in certain cases, we ultimately conclude *Crawford* is inapplicable here. First, there is not a complete absence of rules and regulations regarding GALC proceedings. The Legislature, under its plenary power, has adopted some rules and regulations that apply to certain aspects of GALC proceedings. *See Guam YTK Corp. v. Port*

Auth. of Guam, 2019 Guam 12 ¶ 40 (discussing Guam Legislature's plenary power over land transferred to it from federal government); *In re Request of Gutierrez,* 2002 Guam 1 ¶ 38 (discussing Guam Legislature's plenary power over appropriations). No individual rule or regulation is at issue, and this case does not arise via direct review of an agency action. Because of this, we cannot exercise our jurisdiction to review the original agency action as if this were brought to us on judicial review. *See Teleguam Holdings LLC v. Guam*, 2018 Guam 5 ¶¶ 19-22 (discussing courts' jurisdictional limitations when reviewing agency actions on direct review). Challenges to rules and regulations must be brought on direct review of an agency action. Since this case does not arise on direct review, the only remaining avenue for questioning or examining an agency's action is if there is a successful collateral attack on the action.

2. Only defects affecting the jurisdiction and authority of GALC to adjudicate claims may be raised collaterally

[17] Collateral attacks occur when a party challenges the validity of a judgment or action taken in a different proceeding. *See Pac. Rock Corp. v. Perez*, 2005 Guam 15 ¶ 24 (citing *Collateral Attack, Black's Law Dictionary* (7th ed. 1999)). A collateral attack cannot be used to challenge every defect in the prior proceeding. *See, e.g.*, *Trans Pac. Export Co. v. Oka Towers Corp.*, 2000 Guam 3 ¶ 36. A fundamental defect must exist for a collateral attack to succeed. *See Aflague*, 2020 Guam 18 ¶¶ 13-17; *Taitano v. Calvo Fin. Corp.*, 2008 Guam 12 ¶ 32; *Pac. Rock*, 2005 Guam 15 ¶¶ 27-30. Fundamental defects often involve the lack of subject-matter jurisdiction, *see Pac. Rock*, 2005 Guam 15 ¶¶ 27-30, due process violations involving the absence of notice, *Aflague*, 2020 Guam 18 ¶¶ 13-17, lack of personal jurisdiction over some of the parties, *see Taitano v. Lujan*, 2005 Guam 26 ¶¶ 24-25 (discussing waiver of lack of personal jurisdiction objections), or missing authority over disputed property, *Gov't of Guam v. Gutierrez ex rel. Estate of Torres*, 2015 Guam 8 ¶¶ 17-18.

[18] Several Guam cases discussing collateral attacks involve GALC. In *Taitano v. Lujan*, we found a party failed to timely raise an objection to personal jurisdiction in an action involving property transferred by GALC. 2005 Guam 26 ¶¶ 24-25. Had the party raised the issue, the trial court would have had to address the affirmative defense. *Id.* In other situations, a party has neither the opportunity nor the ability to waive a defect. In *Gov't of Guam v. Gutierrez ex rel. Estate of Torres*, we determined that GALC lacked the authority to distribute certain lands because it lacked jurisdiction over equitable claims, such as contract reformation and quiet title. 2015 Guam 8 ¶¶ 14-18. And, in *Aflague*, we found a successful collateral attack on a GALC deed because the record contained no evidence that some heirs ever received notice of the GALC proceedings. 2020 Guam 18 ¶¶ 13-17. The focus of collateral attacks is, generally, whether the prior court or agency had the authority to adjudicate the claim and whether the now-objecting parties "had an opportunity to challenge" the prior judgment. *See Dresser-Rand Co. v. Guam Indus. Servs., Inc.*, 2019 Guam 4 ¶¶ 14-15.

[19] This case does not involve a collateral attack on the GALC deed or the authority of GALC to distribute the property. It appears as though all the parties participated in the GALC proceedings, as they were all awarded property in the deed from GALC. And in the briefing, all parties, at least initially, assumed the validity of the GALC deed.[3] We find no basis to set the deed aside on collateral review.

B. The Deed's Language Controls Because There Was Neither a Direct nor Collateral Challenge to GALC's Actions

[20] The GALC deed was final when no party appealed from the administrative proceeding, and there is no basis for finding GALC's action void through collateral review. *See supra* Part

[3] While the other appellants besides Jesus and Jesse raise the issue of the absence of rules and regulations, nothing in the brief alleges a fundamental defect. *See* Other Appellants' Suppl. Br. (May 20, 2019). The other appellants' objections would need to be raised in a case on direct review. *See supra* Part IV(A)(1).

IV(A)(1)-(2). The GALC deed granted the property to Juan's six children in their own names. The direct grant to six children was a departure from GALC's prior practice of deeding the property to the ancestral owner's estate, and no one sought judicial review of this decision under 21 GCA § 80104(g).

[21] We then must simply interpret the language of the GALC deed and determine its legal effect. We generally analyze GALC deeds consistent with contract principles. *See Gutierrez*, 2015 Guam 8 ¶¶ 23-32 (analyzing a deed as a contract). However, because the GALC deed did not specify in explicit terms the children's ownership share of the property, the parties contest the proper distribution of interests. The older siblings argue that the land should be shared equally based on the plain language of the deed and the presumption of equal ownership. *See* Appellant Pangelinan's Br. at 5-7 (Aug. 6, 2018); Other Appellants' Am. Br. at 11-12 (Aug. 7, 2018). The two younger children argue that the distribution should follow the probate distribution of Juan's estate. Appellees' Br. at 10-14 (Sept. 19, 2018).

1. The deed was to the six siblings and not Juan's estate, so probate distribution does not apply

[22] An ancestral landowner possesses a contingent future interest in property condemned by the United States that has yet to be returned. *See In re Estate of Esteban*, 2014 Guam 30 ¶ 23. In almost every case presented to this court involving distribution of ancestral lands, GALC had distributed the property to the ancestral owner's estate. *See, e.g.*, *Camacho v. Perez*, 2017 Guam 16; *Gutierrez*, 2015 Guam 8; *In re Estate of Esteban by Tenorio*, 2014 Guam 30; *In re Aguon*, 2013 Guam 4; *Estates of Torres v. Estate of Cruz*, 2011 Guam 4. *But see Aflague*, 2020 Guam 18 ¶¶ 3-4. When an estate is deeded ancestral lands, the property is subject to distribution under the Probate Code and other equitable rules. For example, we have observed or concluded that estate-owned ancestral property is devisable in a will, *Estates of Torres*, 2011 Guam 4 ¶ 33, subject to

the laws of intestate succession, *Estate of Esteban*, 2014 Guam 30 ¶ 23, included in omnibus clauses of a court decree, *In re Aguon*, 2013 Guam 4 ¶¶ 19-22, capable of being equitably transferred under the subsequently acquired title doctrine, *Taitano*, 2005 Guam 26 ¶¶ 48-52; *see also Camacho*, 2017 Guam 16 ¶ 23, and transferable under warranty deeds of gift, *see Camacho*, 2017 Guam 16 ¶ 34; *cf. Taitano*, 2005 Guam 26. However, before an estate "reclaims" the present ancestral title, there are limits to the transferability of ancestral land. A quitclaim deed—which passes only present interests—executed when the ancestral property right was still a contingent future interest will not result in transferring any property rights. *See Taitano*, 2005 Guam 26 ¶ 48.

[23] This case differs from our prior cases, which developed these common law rules. Here, the property was not deeded to Juan's estate. It was deeded to Juan's six children as individual landowners and without an express mention of ownership shares. No one challenged the GALC decision that Juan's six children were the ancestral owners. GALC's final decision remains because GALC is not a court of equity and there is no collateral attack on the GALC determination as this court saw in *Aflague*, 2020 Guam 18 ¶¶ 13-17; *see also In re Estate of Eckstrom*, 354 P.2d 652, 654-55 (Cal. 1960) (in bank) (discussing how principles of finality prevent courts from correcting alleged judicial errors *post-hoc*). Without a challenge to GALC's determination, we need not address it. *Tanaguchi-Ruth + Assocs. v. MDI Guam Corp.*, 2005 Guam 7 ¶ 78 ("[A]s a matter of general practice, 'this court will not address an argument raised for the first time on appeal.'" (quoting *Univ. of Guam v. Guam Civ. Serv. Comm'n (Foley)*, 2002 Guam 4 ¶ 20)).

[24] Because of these limitations, we will not review the underlying reasons leading to GALC's decision. Looking at the language of the GALC deed, it makes no mention in the words of conveyance—or in any other place—of Juan's estate or Maria Castro's interest. The property was never returned or deeded back to Juan's estate, therefore leaving nothing to probate. Because the

Probate Code is inapplicable, we need not address the older children's argument that Maria Castro—the younger children's mother—only possessed an expectancy interest. *See* Other Appellants' Am. Br. at 11. The parties also raise several other arguments inapplicable here. We decline to address the Other Appellants' argument regarding "public benefit and use" as it was not properly raised before the Superior Court. *See Tanaguchi-Ruth*, 2005 Guam 7 ¶ 78. Also, we find the four older children's argument that 15 GCA § 813 entitles them to equal ownership inapposite. First, it does not appear from the cases that 15 GCA § 813 applies to distributions or disputes involving lineal descendants.[4] *See, e.g.*, *Estate of Corcoran v. Gaughan*, 9 Cal. Rptr. 2d 475, 476-77 (Ct. App. 1992), *superseded by statute as stated in Estate of Griswold*, 24 P.3d 1191, 1200-01 (Cal. 2001); *In re Ryan's Estate*, 133 P.2d 626, 628-29 (Cal. 1943); *In re Smith's Estate*, 63 P. 729 (Cal. 1901) (applying half-blood rule to non-lineal descendants). Second, as this case does not arise under the Probate Code, the probate provisions cannot supply a basis for determining there was equal ownership by the siblings.

[25] Because Juan's estate is not mentioned in the GALC deed, we conclude that the rules of probate do not apply. We must determine the ownership interests based on the language of the deed itself. *See Wenske v. Ealy*, 521 S.W.3d 791, 794-98 (Tex. 2017).

2. The deed presumptively transfers title to the six children in equal shares, and the affidavit does not clearly and convincingly overcome the presumption of equal ownership

[26] We now turn to whether, as the older siblings argue, the GALC deed's language conveys the property to Juan's six children in equal shares or whether, as the younger siblings argue, it expressly reserves the question of ownership to be determined consistent with probate. We conclude that the GALC deed conveys the property to the six siblings in equal shares.

[4] This court treats California law as persuasive in interpreting Guam's probate statutes. *In re Estate of Hemlani*, 2008 Guam 25 ¶ 16.

[27] We start with the basics of deed interpretation. Deeds are interpreted like contracts. *See Gutierrez*, 2015 Guam 8 ¶¶ 23-32; *see also Hallin v. Inland Oil & Gas Corp.*, 2017 ND 254, ¶ 8, 903 N.W.2d 61, 64. We interpret the parties' intent from the "the plain language of the four corners of the deed." *Keith v. Mountain Resorts Dev., L.L.C.*, 2014 UT 32, ¶ 21, 337 P.3d 213. Here, the parties dispute whether the GALC deed is ambiguous because it makes no specific mention of ownership shares. When faced with allegations of ambiguity, this court turns to canons of construction and related presumptions. Generally, where an instrument conveys property to individuals as tenants in common and is silent on ownership shares, it is presumed that the parties own equal shares. *Walnut Valley State Bank v. Stovall*, 574 P.2d 1382, 1385 (Kan. 1978). This presumption can be overcome when the person challenging the presumed equal ownership shows through clear and convincing evidence that a different distribution was intended. *See D.M. v. D.A.*, 885 P.2d 94, 97 (Alaska 1994); 86 C.J.S. *Tenancy in Common* § 13 (2020).

[28] The evidence required to overcome the presumption can include showing unequal contributions in purchasing or acquiring the property or other agreements showing that an unequal distribution was intended. *See Howard v. Hughes*, 427 P.3d 1045, 1048-49 (Nev. 2018). Parol evidence can rebut the presumption of equal ownership. *In re Estate of Dern Family Trust*, 928 P.2d 123, 131 (Mont. 1996). One important difference between general contracts and deeds is that extrinsic evidence cannot be used to prove ambiguity in a deed even when it may be admissible to show ambiguity in a general contract. *Estate of Smith v. Spinelli*, 216 P.3d 524, 529-30 (Alaska 2009). The ambiguity must exist on the face of the deed. *Id.* Stated differently, extrinsic and parol evidence can help resolve an ambiguity in a deed, but it cannot be used to show that an ambiguity exists.

[29] Here, the face of the deed grants the property to the six siblings without mentioning ownership shares, thus invoking the presumption of equal ownership. Appellees argue, though, that the GALC deed is ambiguous because an Affidavit of Transferee was filed with the GALC deed, which shows that the parties intended to submit determination of ownership interests to the Superior Court. The Affidavit of Transferee is statutorily required and not specifically incorporated into the GALC deed. Therefore, it is a form of extrinsic evidence, and the testimony related to it is parol evidence. However, because the Appellants did not specifically raise whether the affidavit and related parol evidence is admissible concerning whether the deed is ambiguous, this court will not address it for the first time on appeal. *See Tanaguchi-Ruth*, 2005 Guam 7 ¶ 78. Even assuming the GALC deed is ambiguous, the Affidavit of Transferee and related testimony do not clearly and convincingly overcome the presumption of equal ownership.

[30] We reach this conclusion for several reasons. First, the affidavit is executed by only one of the grantees. It is not a document specifically acknowledged by all grantees—i.e., Juan's six children. The Affidavit of Transferee's purpose is to establish under 21 GCA § 29158 that the property is not community property. This is a condition of recording the deed at the Department of Land Management. The affidavit is to inform the Department of Land Management of the marital status of the parties, as changes to community property require the consent of both spouses. *See* 21 GCA § 29157 (2005). The Affidavit of Transferee does not support the argument that the six siblings agreed to divide their interests in court according to the laws of probate.

[31] Second, the language of the affidavit does not evidence an agreement to subject the children's ownership shares to a court determination. The Appellees argue that the line in the affidavit stating, "as property that is owned in common by the heirs as their interest may be determined by a court of competent jurisdiction," refers to Juan's heirs. However, read as a whole,

the term "heirs" refers to the heirs of the six siblings, not to the six siblings themselves. The whole passage reads:

> The undersigned [Delfina P. Flores] does not assert that s/he is a Grantee claiming, entitled to, or possessing any ownership interest in the above described property, but is acting on behalf of all the transferees/heirs of Jose T. Pangelinan, Regina P. Duenas, Delfina Flores, Jesus T. Pangelinan, Severa C. Pangelinan, and Teresita C. Pangelinan in order that the deed from the Guam Ancestral Lands Commission may be duly recorded in the records of the Department of Land Management as property that is owned in common by the heirs as their interest may be determined by a court of competent jurisdiction.

RA, tab 1 (Compl. Quiet Title), Ex. 7 (Quitclaim Deed and Aff. Transferee). Looking at the entire passage, the term "heirs" as used in the affidavit refers to the heirs of the six children, and the affidavit—like the GALC deed—does not mention Juan, his estate, or Maria Castro. *See Takagi & Assocs., Inc. v. Int'l Ins. Underwriters*, 2006 Guam 4 ¶ 21 ("[T]he contract, read as a whole, does not reveal such implied promises."). The affidavit also does not mention applying the laws of probate. The affidavit does not mention Juan's estate or division according to the Probate Code. In the absence of any language to the contrary, the affidavit's plain language appears to refer to the six siblings as "transferees" and uses the word "heirs" to refer to the descendants of the six siblings if a sibling dies.

[32] Third, the testimony proffered by the younger siblings suggests that the actual intent of the siblings was to own the property in equal shares. The testimony of Teresita LaTour herself and Severa Pangelinan Gogue's son indicate that the parties initially agreed to equal ownership but challenged the distribution of shares only after Teresita and Severa felt unfairly treated by the attempted transfer of land to the estate attorney and a surveyor. On this point, Teresita admitted to signing a document where she agreed to equal shares. She also admitted to challenging the distribution of shares when she felt the estate's co-administrators were not treating her fairly and equitably. Further, Severa's son also testified to feeling mistreated "as equal heirs of the estate of

471." Transcript ("Tr.") at 102 (Bench Trial, July 10, 2017). In describing the mistreatment, he referenced the use of land to compensate the attorney and surveyor.[5] However, the later-in-time agreement with the attorney and surveyor is not a basis to rewrite the earlier-in-time GALC deed.

[33] Based on this analysis, the Affidavit of Transferee and related testimony do not provide clear and convincing evidence to overcome the presumption of equal ownership. The testimony suggests Severa and Teresita agreed to equal ownership and only later changed their minds when they felt unfairly treated. This is not grounds to reform the ownership interests plainly recited in the deed.

V. CONCLUSION

[34] We **REVERSE** the judgment of the Superior Court and **REMAND** for proceedings not inconsistent with this opinion.

/s/
ROBERT J. TORRES
Associate Justice

/s/
JOHN A. MANGLONA
Justice *Pro Tempore*

/s/
KATHERINE A. MARAMAN
Chief Justice

[5] We acknowledge the concerns of the younger siblings regarding the agreement to pay a lawyer and surveyor with portions of the land. An attorney may not accept land as compensation for services without prior court approval. *See* 7 GCA § 9A216(j) (2005). We will not address the issue, though, because the agreement with the lawyer and surveyor is not before the court.