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Hotel Dili case casts doubt on Timor law.
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VICTORIA, Australia (JP): Possession, it has been said, is nine-tenths of the law, although this dictum has rarely applied in East Timor under its successive administrations. More common has been incompetence, chicanery and corruption, which has applied in the case of the Favaro family and the Hotel Dili.

The Dili District Court has just ruled that Gino and Ernesto Favaro do not legally own the Hotel Dili, which their family owned and ran from 1971 until December 1975, and they have owned and run again since 1998. Now District Judge Rui Dos Santos has ruled in favor of ownership by Helene Baros, who occupied the hotel for a few weeks in 1999. This decision comes after a string of competing claims to ownership of property that have been complicated by appeals to Portuguese and Indonesian law.

Under the United Nations Transitional Administration in East Timor (UNTAET), property legally owned under Indonesian law is still legally owned, except in cases where it has been abandoned and subsequent claims have been made.

Frank Favaro had bought the Hotel Dili in 1971, and relocated his family to what was then Portuguese Timor. The family abandoned the hotel in the face of Indonesia's military invasion of December 1975. As with so much other property, the hotel was confiscated by the Indonesian authorities and sold to supporters of the new regime.

Pinto Soares, sister of a pro-Indonesian East Timorese governor, bought the Hotel Dili. However, with no visitors, it quickly went broke. When I visited in 1995, the hotel was closed and shuttered, with rubbish blowing in its courtyard. Given the bleak environment of oppression and suspicion in East Timor at that time, this was not a surprising outcome.

When Frank Favaro's sons, Gino and Ernesto, attempted to claim legal title of the hotel soon after, there was little real opposition although, given the change of legal statute, a sale was proposed instead of simple return. The purchase price reflected the lack of business and the Favaro's continuing claim to ownership. The purchase was legal under Indonesian law, as had been their family's original ownership under Portuguese law. Gino and Ernesto Favaro returned to Dili in 1998 and re-opened for business.

The Hotel Dili did a roaring trade with UN workers, journalists and aid workers during the lead-up to the independence ballot of Aug. 30 1999. But Gino and Ernesto Favaro were marked for retribution by Eurico Guterres and the violent Aitarak militia, who were headquartered immediately behind the hotel. It was obvious that after the announcement of the vote that all hell would break loose and, like many others, the staunchly pro-independence Favaro brothers were in genuine fear of their lives.

On Sept. 4, 1999 the shooting and destruction started in earnest. The Favaro's scrambled from their hotel to a refugee ship, fleeing first to Kupang in West Timor and then to Jakarta and Darwin. Anyone who stayed in Dili for the following two black weeks in September 1999, or who was quick to return, as was Helene Baros, could have claimed virtually the whole town, after it was abandoned in the face of terror, violence and forced expulsion.

Yet this period has only been regarded transitional for the purposes of law. In this context, the Favaro brothers returned to Dili after the arrival of the international troops (Interfet) to reclaim and rebuild their hotel, which again became a thriving business.

Now, without being allowed the opportunity of appearing in defense, the Favaro's ownership of the hotel has been stripped from them by the local court, in favor of Helene Baros.

It is not clear on what legal grounds the Dili District Court overturned UNTAET's own ruling on legal possession, although it could not have been under Indonesian or Portuguese law. It is true that some East Timorese don't like the Favaro's somewhat brash style and the brothers are certainly not apologetic about being enthusiastic small capitalists. But these are not legal matters.

The ruling therefore raises serious doubts about the legal administration in East Timor, which is already under question over competence and external influence in judicial outcomes. Such legally doubtful decisions will certainly deter outside investment in East Timor, and will seriously hamper local development.

There are, of course, continuing practical difficulties in creating a new state, and in bringing up to speed a largely untrained local administration. But the Hotel Dili decision shows that East Timor is still a long way from attaining the goals of proper administration and judicial impartiality its people aspired to when they voted for independence.
almost two years ago.

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