IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

ALFONSO RIUMD and other children and heirs of Benged Riumd and EDGAR PATRICK and other children and heirs of Patrick Delemel,
Appellants,
v.
SIDNEY EICHI MOBEL, individually and on behalf of his siblings Barbara Ogle, Dora Mobel, Doralind Eichi, Donton Eichi, Dwayne Eichi, and Donna McKee,
Appellee.

Cite as: 2017 Palau 4
Civil Appeal No. 15-025
Appeal from Civil Action No. 14-045

Decided: February 9, 2017

Counsel for Appellants .....Johnson Toribiong
Counsel for Appellee .....Yukiwo P. Dengokl

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice
JOHN K. RECHUCHER, Associate Justice
R. BARRIE MICHELSEN, Associate Justice

Appeal from the Trial Division, the Honorable Kathleen M. Salii, Associate Justice, presiding.

OPINION

PER CURIAM:

[¶ 1] This appeal involves a dispute over the ownership rights in land known as Ochelochel. As explained below, Appellant Alfonso Riumd has not met his burden to establish error in the judgment of the Trial Division. Accordingly, we **AFFIRM**.[1]

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[1] Although Appellant requests oral argument, we determine pursuant to ROP R. App. P. 34(a) that oral argument is unnecessary to resolve this matter.

BACKGROUND

[¶ 2] The land known as Ochelochel is in Ngetkib Hamlet, Airai State. For many decades, Ochelochel has been in the possession of members of the "family of Delmel." *See Riumd v. Tanaka*, 1 ROP Intrm. 597, 604 (1989). Delmel was a man married to Tmetbab. *Id*. at 597. Ochelochel was given to Tmetbab by her adoptive father. *Id.* at 598.[2]

[¶ 3] Tmetbab's and Delmel's children included Mobel Delmel, Benged Riumd, and Patrick Delmel. Mobel also had several children, including Eichi Delmel and Masae Tanaka. Eichi was adopted to Mobel's parents, making Eichi a sibling of Mobel, Benged, and Patrick. These four siblings, along with Mobel's daughter Masae, would come to dispute the right to Ochelochel on numerous occasions following the death of Tmetbab.

[¶ 4] To varying degrees the parties to this instant dispute rely on prior adjudications of ownership of Ochelochel. Upon reviewing the record, it is clear the parties' descriptions of those prior adjudications is, at best, incomplete; in certain cases, the characterization of prior adjudications is simply inaccurate. Accordingly, we are compelled to take a longer-than-otherwise-necessary digression into the history of the dispute over Ochelochel. For present purposes, that history begins in 1977.

A. Supreme Court Litigation: 1977-1990

[¶ 5] As it would later be determined, in 1977 Benged, "alone and without the knowledge or consent of Mobel," had "borrowed money from [Francisco K.] Morei and mortgaged Ochelochel as collateral." *See* Decision, Civil Action No. 475-89, at 7 (June 12, 1990). Benged defaulted on the loan and in 1982 Morei filed a suit to foreclose on the mortgage. *Id.* at 1. Morei ultimately dropped the suit, informing the court that full payment for the defaulted loan had been "received by Morei from Mobel." *Id.* at 2.

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[2] Ochelochel is also the name sometimes used for a larger area in Ngetkib. *See In re Ochelochel*, LC/N 04-98 (August 10, 1999). Unless noted, in this opinion Ochelochel refers to the smaller portion historically possessed by the family of Delmel. We also note that both the parties and record documents use the names "Delmel" and "Delemel" interchangeably.

[¶ 6] In fact, it had been Mobel's daughter Masae who paid off the loan to settle the suit. *See id.* at 7, 8. Masae had done so with the understanding that title to Ochelochel would be vested in her name. *Id.* at 4. The same day the foreclosure suit was dismissed—October 31, 1984—Mobel executed a deed purporting to convey Ochelochel to Masae.

[¶ 7] In April 1986, Benged, Patrick, and Eichi filed a complaint against Mobel and Masae. *See* Civil Action No. 86-75 (April 10, 1986). The complaint alleged that Mobel did not own Ochelochel as his individual property; instead, he—as the eldest male—was only trustee of the land, which was to be administered for the benefit of the four siblings (Mobel, Benged, Patrick, and Eichi). Accordingly, they argued, Mobel had no right to convey the land to Masae without their consent. In answer, Mobel claimed that he owned Ochelochel in fee simple and that the deed accordingly conveyed the land to Masae such that she owned it in fee simple. The Trial Division ultimately ruled in favor of Benged, Patrick, and Eichi. Mobel and Masae appealed.

[¶ 8] On appeal, we concluded "that Ochelochel is family-owned land and that Mobel Delmel is the trustee thereof." *Riumd*, 1 ROP Intrm. at 606. We accordingly held that the deed purporting to convey Ochelochel to Masae was void. *Id.* at 604. We explained that "[e]ven if Mobel Delmel, as the oldest male of the family, is the head of the family, he still does not have the authority to dispose of the family's land without the consent of the family." *Id.* at 604-05 (citing *Ngirchongerung v. Ngirturong*, 1 TTR 71). In clarifying the ownership of Ochelochel, we rejected the Trial Division's characterization that the land was owned in "joint tenancy." *Id.* at 605-06. We explained that joint tenancy was a common law form of co-ownership, but that "in the absence of any discussion of the [nature] of the co-ownership [of Ochelochel] at the trial" the trial court had "improvidently characterized the family ownership as one in joint tenancy." *Id.* at 606. Instead, we stated that "[t]he family ownership of the land and its administration is and shall be pursuant to Palauan custom." *Id.*

[¶ 9] In a footnote, we stated that our ruling "d[id] not foreclose remedies that may be available to Mrs. Tanaka." *Id.* at 606 n.1. This statement referred to the fact that Ochelochel had apparently only remained in the

family because Masae had paid off the defaulted loan to Morei. In August 1989, Masae filed a complaint against the four siblings. *See* Decision, Civil Action 475-89, at 4 (June 12, 1990). Masae alleged that she had paid off the defaulted loan with the understanding that title to Ochelochel would come to her. *Id.* She argued that the default "cut off the title to Ochelochel and vest[ed] title in Morei" and that her payment "was not in the nature of a loan to [the four siblings] to pay their debt, but rather was for the purchase of Ochelochel from Morei and that all understood this." *Id.* at 4-5. The siblings primarily argued that the court's prior judgment in the 1986 suit was *res judicata* to Masae's suit. *Id.* at 5.

[¶ 10] The Trial Division rejected the siblings' *res judicata* argument. The court explained that *res judicata* did not apply "where the judgment sought to be a bar was obtained through fraud or deception." *Id.* at 7. The court noted that the 1986 judgment was rendered without the siblings having brought the full facts of the purported mortgage of Ochelochel to the court's attention. The Trial Division found "that there existed deception on the part of Benged who either forgot or was untruthful about the fact that she entered into a mortgage agreement with Morei." *Id.* at 8. The court continued by stating that to a degree "this deception influenced the judgment in [1986]." *Id.* The court accordingly found the doctrine of *res judicata* inapplicable.

[¶ 11] Nevertheless, the court found that Masae was not entitled to sole ownership of Ochelochel. The court explained that Ochelochel was family-owned land; the four siblings were "co-holders" of the land and pursuant to customary law "each [had] an un-divided interest and title in Ochelochel which may not be divested absent the knowledge and consent of all the others." *Id*. at 6. The court noted that custom provided an exception in times of family emergency, whereby "the eldest male and female co-holders of family owned land may alienate or mortgage the interest of all holders without their knowledge or consent." *Id.* The eldest male and female co-holders were Mobel and Benged. *Id.* The Trial Division concluded that under this customary law, even in time of emergency, "the act by Benged of mortgaging Ochelochel to Morei as security for a debt was an illegal act because she did so independently and without the concurrence of Mobel." *Id*. at 7-8. Because Benged had lacked the authority to mortgage Ochelochel, the mortgage had been ineffective to establish a lien on Ochelochel sufficient to

pass title in the event of default. *See id.* at 8. Therefore, the court concluded, Masae's payment to settle Morei's foreclosure action "was simply a settlement of the debt . . . and conferred no rights to the land." *Id*. Accordingly, title to Ochelochel remained "in its original state (i.e. family owned land)." *Id*.[3]

B. Land Court Proceedings and Appeal: 1998-2002

[¶ 12] Mobel Delmel died in February 1998. Later that year, the Land Court began hearings on twenty-six parcels of land in Ngetkib, including Ochelochel. Claims for these parcels were closed on April 16, 1998, and the claims were monumented from April 20 to April 22. *See* Determination, Land Court Hearing No. LC/N 04-98, at 1 (August 10, 1999).

[¶ 13] Of the parties to the earlier Supreme Court litigation, only Eichi and Masae claimed interests in the land.[4] Eichi claimed that in 1992 his three siblings, Mobel, Benged, and Patrick, had executed a quitclaim deed that transferred ownership of Ochelochel to him. *Id.* at 11. In support, he submitted an un-notarized "Quitclaim Deed" ostensibly signed by Mobel, Patrick, and Benged. *Id*. at 23. Benged also testified in support of Eichi's claim. *Id*. at 11. She stated "that Eichi should have their land now because he [was] taking care of her." *Id*.

[¶ 14] Masae disputed that her father Mobel had ever consented to the purported conveyance of the land to Eichi. Masae claimed that Mobel had conveyed his interest in Ochelochel to her in 1995. Masae produced a 1995 "'Transfer of interest in family land' signed under oath by Mobel Delmel which . . . [purportedly] conveye[d] his 1/4th interest to Masae." *Id*. at 12.

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[3] Recognizing the inequity of this result, the Trial Division exercised its equitable powers to hold Benged and Mobel jointly and severally indebted to Masae for the value of the debt she had paid, plus interest. *See id.* at 9. The court further awarded Masae an equitable lien on Benged's and Mobel's interests in Ochelochel until the debt was settled. *Id.* at 9-10.

[4] Other individuals claimed interests in Ochelochel, but none were ultimately successful.

[¶ 15] The Land Court ultimately rejected Eichi's claim and accepted Masae's. The Land Court noted that the earlier Supreme Court rulings "declared that the four siblings[, Mobel, Benged, Patrick, and Eichi,] co-owned this family land, and none of them could singly alienate his or her interest without the knowledge and consent of the others." *Id.* at 23. The Land Court found that Eichi's 1992 quitclaim deed "was made without the knowledge, consent, and participation of Mobel" and was therefore ineffective. *Id*. The Land Court further found that Masae had "succe[eded] to her father's interest." *Id*. Accordingly, the Land Court found that "the land remains family property, owned by Eichi Delmel, Benged Riumd, Patrick Delmel, and Masae Tanaka." *Id.* The Land Court concluded that "Eichi Delmel, Benged Riumd, Patrick Delmel, and Masae Tanaka own land known as *Ochelochel*" and ordered that a determination of ownership should issue in conformance with that conclusion. *See id*. at 26-27.

[¶ 16] Eichi appealed. Shortly after the appeal was noticed, both Eichi and Benged passed away. Eichi's estate continued to pursue the appeal. *See Iyar v. Becheserrak*, 9 ROP 154, 155 n.2 (2002).[5] While the appeal was pending, Patrick also passed away. We ultimately affirmed the Land Court's holding that "Eichi, Benged, Patrick and Mobel remained the joint owners of the property and that Tanaka had acceded to Mobel's interest upon Mobel's death." *Id*. at 157.

C. Division and Partition of Ochelochel: 1998-2014

[¶ 17] Around the time of the Land Court hearing on Ochelochel, planning and work was in progress to construct the Compact Road.[6] The road would divide Ochelochel into two parts. The larger part on the landward side of the road would eventually come to be designated as Cadastral Lot 037 N 07. The smaller part on the seaward side of the road would eventually come to be designated as Cadastral Lot 038 N 08.

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[5] As we did in *Iyar*, for convenience we continue to refer to the estate as "Eichi." *Cf.* 9 ROP at 155 n.2.

[6] The 1998 easements across Ochelochel to the government to construct the road were signed by Eichi as "Grantor."

[¶ 18] On November 3, 2003, the Land Court issued a Certificate of Title for the seaward lot. It certified "that Eichi Delemel, Benged Riumd, Patrick Delemel, & Masae Tanaka is/are the owner(s) of an estate in fee simple in land . . . particularly described as . . . Cadastral Lot No. 037 N 08." The record indicates that this was the operative Certificate of Title at the time the instant suit was filed in April 2014.

[¶ 19] Masae died in 2007. When the Land Court issued a Certificate of Title for the landward lot in 2008, the title listed Masae's daughter Maria Tanaka in her place. It certified "that Eichi Delemel, Benged Riumd, Patrick Delemel, and Maria Tanaka is/are the owner(s) of an estate in fee simple in land . . . particularly described as . . . Cadastral Lot No. 037 N 07."

[¶ 20] There the dispute stood until 2012, when Alfonso Riumd filed a "Petition to Partition Land." *See* Petition, Civil Action No. 12-166 (September 18, 2002). Alfonso represented that he was the oldest male child of Benged and that he was acting for himself and as the representative of Benged's other children. The petition stated that the Children of Benged Riumd, the Children of Eichi Delemel, and the Children of Patrick Delemel "are co-owners of 'Ochelochel' as the descendants of Benged Riumd, Eichi Delemel and Patrick Delemel." *Id*. at 2. The petition further stated that "Maria Tanaka may be the owner of her mother [Masae's] interest in 'Ochelochel' pursuant to [the 2008 Certificate of Title]." *Id*. Alfonso asked that (1) "[t]he current joint ownership of 'Ochelochel' be clarified and confirmed" and (2) that "'Ochelochel' be partitioned . . . into four sections and each section be awarded to the descendants of Eichi Delemel, Benged Riumd, Patrick Delemel, and Masae Tanaka." *Id*. at 3.

[¶ 21] After discussions and formal mediation, in early 2014 the parties stipulated to a partition of the larger, landward portion of Ochelochel, Cadastral Lot No. 037 N 07. The Trial Division entered a judgment partitioning that lot into four equal portions, with one portion allocated to each of Maria Tanaka, "the heirs of Eichi Delemel," "the heirs of Patrick Delemel," and "the heirs of Benged Riumd." *See* Judgment, Civil Action No. 12-166 (January 23, 2014). The judgment did not address the seaward portion of Ochelochel, Cadastral Lot No. 037 N 08.

[¶ 22] Shortly after entry of the partition judgment for the landward lot, Maria Tanaka executed a warranty deed conveying her interests in the seaward lot to "the children of Eichi Delemel" including Sidney Mobel. Around this same time, Alfonso Riumd began earthmoving and construction activity on the seaward lot. Sidney sent Alfonso a letter asking him to cease construction. Apparently unable to reach an accord, Sidney filed a complaint in the Trial Division.

D. **Current Supreme Court Litigation: 2014-Present**

[¶ 23] In his complaint, Sidney sought a declaration that he and his siblings—Barbara Ogle, Dora Mobel, Doralind Eichi, Donton Eichi, Dwayne Eichi, and Donna McKee—were the heirs of Eichi Delemel and entitled to inherit Eichi's interests in both portions of Ochelochel. Sidney also sought an injunction barring Alfonso and others from continuing construction on the seaward lot. The Trial Division ordered Sidney to post public notices of the claims of Eichi's heirs. Alfonso and Edgar Patrick filed a "Statement of Objection." The statement did not contest Sidney's claim to be Eichi's heir; instead, Alfonso argued that Ochelochel was owned by the lineage of his grandmother, Tmetbab. Alfonso argued that the oldest children of Benged were the ochell members of that lineage and had the customary right to control disposition of Ochelochel.

[¶ 24] On August 12, 2015, following trial, the Trial Division issued a decision in Sidney's favor. The court recounted some of the prior adjudications of Ochelochel and noted that the Certificate of Title for the seaward lot "lists Eichi Delemel, Benged Riumd, Patrick Delemel and Masae Tanaka as the owners." The court found that Eichi "died without a will, either written or oral, and there was no cheldecheduch."

[¶ 25] The court further concluded that the intestacy statute, 25 PNC § 301, did not apply and that "custom determines Eichi's heirs for purposes of inheritance." The court determined that Sidney and his siblings were the heirs of Eichi and "entitled to their father's interest in Lot 037 N 08." In so doing, the court rejected the argument that Ochelochel was lineage land. The Trial Division noted that the 1990 summary judgment awarded the whole of Ochelochel "to the four siblings" and that it could not be considered "family or lineage land through Dirratmetbab whereby only Benged's children, as

ochell, have authority to control [it]." The court found that the 1999 determination of ownership and the later Certificate of Title precluded Alfonso's claim of authority over the lot. Accordingly, the Trial Division entered judgment declaring Sidney and his siblings to be Eichi's heirs and ordered Alfonso to remove all construction materials and "restore it to its original condition." Alfonso timely appealed.[7]

STANDARD OF REVIEW

[¶ 26] We review a lower court's conclusions of law de novo. *See, e.g.*, *Minor v. Rechucher*, 22 ROP 102, 105 (2015). We review a lower court's determination as to what the customary law is in Palau de novo. *See Beouch v. Sasao*, 20 ROP 41, 50 (2013). We review a lower court's findings of fact for clear error. *Minor*, 22 ROP at 105. Under the clear error standard, the lower court will be reversed only if the findings "so lack evidentiary support in the record that no reasonable trier of fact could have reached the same conclusion." *Id*.

DISCUSSION

[¶ 27] On appeal, Alfonso brings two challenges to the trial court's decision. First, he argues that prior adjudications of rights in Ochelochel are dispositive of this dispute and that the Trial Division erred by not according those adjudications controlling effect. Second, he argues that the Trial

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[7] In his filings in the Trial Division, Alfonso has frequently represented that "[t]he Children of Patrick Delemel support the claim of the Children of Benged Riumd" that "Cadastral Lot 037 N 08 ('Ochelochel') should be awarded to the Children of Benged Riumd for them to own in their capacity as the last surviving ochell, the matrilineal descendants, of the lineage of Dirratmetbab." In some tension with that support, in March 2015 Edgar Patrick, as the surviving son of Patrick Delemel, filed a petition to settle Patrick's estate that requested the Court to transfer Patrick's interest in Cadastral Lot 037 N 08 to him. After proper public notice, the Trial Division issued an order transferring Patrick's interest in the lot to Edgar. *See* Order, Civil Action No. 15-034, at 1-2 (September 4, 2015). It is unclear how the petition is consistent with the view that the lot is lineage land controlled by Alfonso and the other children of Benged Riumd.

Division erred in determining that custom dictates that Eichi's interests in Ochelochel pass to his children. We address each argument in turn.

I. Prior Adjudication of Rights in Ochelochel

[¶ 28] Alfonso argues that the Trial Division committed legal error when it declined to hold that "the ownership of [Ochelochel] is that of joint ownership pursuant to Palauan custom by the lineage of its original owner." He states that his "primary argument before the Trial Court was based upon the Summary Judgment in *Masae Tanaka v. Benged Riumd*, Civil Action No. 475-89 (1990), which held that the land in dispute, known as Ochelochel, was 'family-owned land.'" Alfonso argues that that judgment "has *res judicata* effect on the instant case." He later argues that our decision in *Riumd*, 1 ROP Intrm. 597, is "binding on the parties to the instant case under the doctrine of preclusion." On the authority of those prior adjudications, Alfonso asks us to "declare the land in dispute is 'family-owned land' by the family/lineage of Diratmetbab, deceased, presently consisting of Appellant Alfonso Riumd and his sisters." The gist of Alfonso's arguments is that decisions of this Court around 1990 hold that the land known as Ochelochel is controlled by the lineage of his grandmother, Tmetbab. We disagree.

[¶ 29] Alfonso mischaracterizes the holdings of those cases. The decisions in those cases characterized Ochelochel as "family-owned land,"[8] but they did not hold that the land was owned by a lineage or clan. We specifically noted "the absence of any discussion" of the nature of Ochelochel's co-ownership at the trial. *Riumd*, 1 ROP Intrm. at 606.[9] Accordingly, we held only that the family land would be administered "pursuant to Palauan custom." *Id*. The content of that custom was later determined in the Trial Division in Civil Action 475-89. The Trial Division

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[8] Although Alfonso asserts that the relevant "family" is that of Tmetbab, in *Riumd* we stated that we were affirming the trial court's "holding that Ochelochel belongs to the family of Delmel." *See* 1 ROP Intrm. at 604. Alfonso does not address this portion of our holding.

[9] This was part of the reason we declined to find that the ownership was a common-law "joint tenancy." *Riumd*, 1 ROP Intrm. at 606. However, our rejection of one form of ownership—joint tenancy—does not mean that we held that another form of ownership—lineage—applied.

did not hold that Ochelochel was lineage land; the court found the four siblings were "co-holders of Ochelochel and as such, pursuant to Palauan Customary Law, each has an undivided interest and title in Ochelochel which may not be divested absent the knowledge and consent of all the others." Judgment, Civil Action No. 475-89, at 6 (June 12, 1990). Alfonso does not explain how that finding is equivalent to the customary treatment of lineage land.

[¶ 30] Alfonso's brief also does not address at all the effect of subsequent judicial adjudications of rights in Ochelochel. Most glaring—and inexcusable—is the omission of any discussion of the Land Court proceedings that began in 1998 and the subsequent appeal. *See* Adjudication and Determination, LC/N 04-98 (August 10, 1999). The Land Court, affirmed by the Appellate Division, determined that "Eichi, Benged, Patrick and Mobel remained the joint owners of the property and that [Masae] Tanaka had acceded to Mobel's interest upon Mobel's death." *See Iyar v. Becheserrak*, 9 ROP 154, 157 (2002). Neither the Land Court nor the Appellate Division of the Supreme Court held that Ochelochel was "lineage" land.[10] The lineage Alfonso now claims owns Ochelochel did not make a claim to Ochelochel when its ownership was before the Land Court.[11]

[¶ 31] The title issued pursuant to the Land Court's determination of ownership certifies that "that Eichi Delemel, Benged Riumd, Patrick Delemel, & Masae Tanaka is/are the owner(s) of an estate in fee simple in land . . . particularly described as . . . Cadastral Lot No. 037 N 08."[12] A

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[10] It is not merely the repeated absence of the term "lineage" from these decisions that undermines Alfonso's arguments. As just one example, the *Iyar* court upheld Masae Tanaka's claim to have acceded to her father Mobel's interest upon his death. *See* 9 ROP at 157. Alfonso offers no explanation for why Masae would have been entitled to inherit her father's interest in Ochelochel if the land was lineage land.

[11] Benged (through whom Alfonso claims authority over Ochelochel) in fact testified in the Land Court in support of Eichi's claim to ownership of the land. *See* Determination, LC/N 04-98, at 11 (August 10, 1999).

[12] This certificate appears to have been the operative certificate at the time this case was before the Trial Division. As noted above, in March 2015 Edgar Patrick, as the surviving son of Patrick Delemel, filed a petition to settle

Certificate of Title "serves as the point of finality in land ownership determinations." *Tebelak v. Rdialul*, 13 ROP 150, 154 (2006). Absent certain limited exceptions, "Certificates of Title are entitled to conclusive weight." *Id*. Alfonso has not argued—let alone met his burden to establish—that any of those exceptions applies here. *Cf. id.* at 154 n.4 (explaining exceptions and a challenger's burden). Additionally, Alfonso does not address why, if the land was owned by a lineage, the Certificate of Title was not issued in the name of the lineage. Alfonso does argue that "land owned 'in fee simple' by multiple parties 'pursuant to Palauan custom' is metamorphosed by Palauan custom into a smaller unit of Palauan lineage or clan land." However, Alfonso cites no legal or customary authority for this proposition.

[¶ 32] The Trial Division concluded that the prior judicial determination of ownership and the ensuing Certificate of Title was "preclusive on all parties to this case" and that the seaward portion of Ochelochel "cannot be considered family or lineage land through Dirratmetbab whereby only Benged's children, as ochell, have authority to control disposition thereof." Alfonso mischaracterizes the Trial Division's holding by taking the trial court's "cannot be considered family [land]" language out of context. In his brief, Alfonso argues that the trial court "erred on the law by its denial of [his] claim that the land in dispute is family-owned land and should be kept as such administered pursuant to Palauan custom." The Trial Division's conclusion was that the land was not owned in a manner that gave Alfonso and his siblings sole authority over the land through their family or lineage status. The Trial Division did not hold, as Alfonso suggests, that the land should not be administered pursuant to Palauan custom; the court simply held that customs applicable to, for example, lineage land were not applicable to Ochelochel because Ochelochel was not lineage land. Alfonso has not met

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Patrick's estate that requested the Court to transfer Patrick's interest in Cadastral Lot 037 N 08 to him. After proper public notice, the Trial Division issued an order transferring Patrick's interest in the lot to Edgar. *See* Order, Civil Action No. 15-034, at 1-2 (September 4, 2015). The certificate issued pursuant to that order lists Eichi, Benged, Edgar, and Masae as the owners. The substitution of Edgar for Patrick does not affect the outcome of this appeal.

his burden to show that the trial court's conclusion that Ochelochel is not lineage land was erroneous. Accordingly, we affirm that conclusion.

II. Customary Heirs

[¶ 33] The Trial Division concluded that Sidney and his siblings are the heirs of Eichi and entitled to inherit Eichi's interests in Ochelochel. Alfonso argues that this conclusion must be reversed because it was based on an erroneous finding of custom. We disagree.

[¶ 34] The core of Alfonso's argument is that the trial court credited the wrong expert on Palauan custom: "Appellant submits that the Trial Court erred by its decision to adopt Ngirakebou Roman Bedor's version of Palauan custom on intestate succession." Alfonso argues that "the right Palauan custom . . . is the custom testified to by Floriano Felix, which is corroborated by the decision in [*KSPLA v. Ngirmang*]."

[¶ 35] To the extent Alfonso is arguing that the Trial Division credited the wrong expert, that argument is seriously undermined by the very case Alfonso cites. In *Ngirmang* we stated that "it is well-settled that the trial judge is best situated to make credibility determinations of expert witnesses, and this Court will generally defer to those decisions." 14 ROP 29, 34 (2006) (citing *Tmiu Clan v. Hesus*, 12 ROP 156, 158 (2005)); *accord, e.g.*, *Saka v. Rubasch*, 11 ROP 137, 141 (2004) ("[W]e are in no position to second-guess the trial court, who saw and heard both experts testify, in choosing to credit one over the other.")

[¶ 36] To the extent Alfonso is arguing that the Trial Division's determination of custom was clearly erroneous because there was no record evidence to support it, that argument fails for two significant reasons. First, it is not supported by the record. An accepted—and stipulated—expert on Palauan custom, Ngirakebou Roman Bedor, testified as follows:

> Q. [J]ust to make sure the record is clear. So if there's no [che]ldecheduch to discuss the subject matter then according to Palauan custom, your share of the land which you and your siblings jointly own, will automatically according to Palau custom, will go to the surviving people in your stead, your children? Is that correct?

> A. The surviving people in my stead are my children it will go to them.
>
> Q. Okay. It's not your siblings who are your surviving people in your stead, according to Palauan custom?
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> A. No, no. The surviving children of a person are in his stead/in his place.
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> *****
>
> Q. Okay. Now the land owned by four siblings. Let's say you, your brothers and your sister. If one [of] you dies, and no [che]ldecheduch was . . . held to discuss the disposition of your interest, the deceased, it is the children of the deceased who will take it. Those who are said to be in his stead or to replace him who are survived, your children?
>
> A. Yes, as they are replacing me who are living and alive.
>
> Q. And those will get their father's or their mother's interest, the deceased owner of the land? Is that correct?
>
> A. That is correct.

See Transcript of Proceeding, Civil Appeal No. 15-025, at 58, 60 (filed April 4, 2016). Bedor's testimony clearly provides record evidence to withstand a clear error challenge.

[¶ 37] Second, and more fundamentally, Alfonso's argument also fails because it is premised on incorrect legal standards. Alfonso cites to *Ngirmang* and *Arbedul v. Emaudiong*, 7 ROP Intrm. 108 (1998), for the propositions that "matters of custom must be resolved on the record of each case" and that "the existence and substance of custom [is] a matter of fact." These standards were overruled by the Appellate Division in *Beouch v. Sasao*, 20 ROP 41, 47-50 (2013). In *Beouch*, we announced new standards for determining customary law, *id.* at 48-49, and explained that "this Court will review a lower court's determination as to what the customary law in Palau is under a de novo standard." *Id*. at 50.

[¶ 38] Because the underlying civil case here was filed in 2014, the *Beouch* standard applies. *See id.* at 51 & n.10. Alfonso does not develop any argument showing that the Trial Division determined custom in violation of

Beouch. Even if the Trial Division erred under *Beouch*, it is Alfonso's burden to identify that error and provide legal authority in support of reversal.[13] Alfonso has failed to meet this burden.[14]

CONCLUSION

[¶ 39] For the foregoing reasons, the judgment of the Trial Division is **AFFIRMED**.

SO ORDERED, this 9th day of February, 2017.

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[13] *See, e.g.*, *Suzuky v. Gulibert*, 20 ROP 19, 22 (2012). "With respect to specifications of legal error, the burden is on the party asserting error to cite relevant legal authority in support of his or her argument." *Id.* at 23. "Unsupported legal arguments need not be considered by the Court on appeal." *Id.*; *see also, e.g.*, *Idid Clan v. Demei*, 17 ROP 221, 229 n.4 (2010).

[14] Because Alfonso has not met his burden, we need not decide whether the Trial Division erred under *Beouch*. We note, however, that although the Trial Division did not cite to *Beouch*, it did appear to treat the determination of customary heirs as a legal question. The Trial Decision also cited to *Marsil v. Telungalk ra Iterkerkill*, 15 ROP 33 (2008). The lower court in *Marsil* had determined that "if there is no applicable decent and distribution statute, if no eldecheduch was held regarding a decedent's property, and if no other evidence exists, property goes to the decedent's children as they are the customary heirs." *Id*. at 36 (citing *Children of Dirrabang v. Children of Ngirailid*, 10 ROP 150, 152 (2003)). On appeal, the Appellate Division explained that "[u]pon de novo review, we uphold this conclusion of law." *Id*. at 36. Under *Beouch*, this conclusion may constitute "past judicial recognition of a traditional law." 20 ROP at 48-49.