

**IN THE  
SUPREME COURT OF THE REPUBLIC OF PALAU  
TRIAL DIVISION**

**NGEUCH CLAN by OMUIK LOTHAIN SADAO,**  
*Plaintiffs/Counter-Defendants,*

v.

**OMUIK JUSTINO NGSAL NGIKLEB,  
FELIX FRANCISCO,**

*Defendants/Counter-Plaintiffs.*

Cite as: 2024 Palau 33  
Civil Action No. 18-079

Decided: September 21, 2023

BEFORE: LOURDES F. MATERNE, Associate Justice, presiding

**JUDGMENT ON REMAND**

[¶ 1] Judgment was entered by this Court in favor of Plaintiffs, with the reasoning set out in the October 3, 2019 Order Granting Motion for Reconsideration. Thereafter, the Appellate Court in *Ngikleb v. Sadao*, 2021 Palau 5, vacated and remanded for further explanation. This Court then entered its February 21, 2022 Decision on Remand, which the Appellate Court vacated in *Francisco v. Ngeuch Clan by Omuik*, 2022 Palau 22 and remanded for further analysis under *Beouch v. Sasao*, 20 ROP 41 (2013). The Court hereby reaffirms its decision that Lothain Sadao was properly appointed as *Omuik* of the Ngeuch Clan and incorporates the October 3, 2019 and February 21, 2022 Decisions. Because the Appellate Court noted that the terms of the new custom and the Ngeuch Clan's adherence to the custom were adequately established, the Court focuses its supplemental analysis on clarifying its rationale under *Beouch. Francisco*, 2022 Palau at 5.

**BACKGROUND**

[¶ 2] As the Appellate Court noted, this Court relied on the testimony of Chief Ucherremasech Carlos Ramon and Chief Ucherramedeb Warren

Fukuichi to determine if the new custom of Angaur State<sup>1</sup> rose to the level of traditional law. *Id.* at 2. The two chiefs testified “...once the *ourrot* appoints, the appointee becomes *rubak* and is only subject to discipline including expulsion by the *klobak* for cause.” Decision on Remand, *Sadao v. Ngikleb*, Civil Action No. 18-079, at 2 (Tr. Div. Feb. 21, 2022). This Court found their testimonies credible and concluded that the new custom was traditional law. *Id.* As such, Lothain Sadao is the rightful bearer of the title of *Omuik* based upon his appointment by the *ourrot* of Ngeuch Clan.

### SUPPLEMENTAL ANALYSIS

[¶ 3] On remand, the Appellate Court mandated further analysis to establish that the new custom of Angaur State is traditional law. *Francisco*, 2022 Palau at 2. This Court applies the rule established in *Beouch v. Sasao*, 20 ROP 41, 48 (2013) to the case at hand and determines that the new custom of Angaur State qualifies as traditional law. Traditional law is established when it can be demonstrated that “(1) the custom is engaged voluntarily; (2) the custom is practiced uniformly; (3) the custom is followed as law; and (4) the custom has been practiced for a sufficient period of time to be deemed binding.” *Id.* at 48. Nothing in the record indicates that adherence to the custom was involuntary. What the record shows is the appointment by the *ourrot* has consistently been required but a lack of a *blengur* has not stopped a chief from taking on the title of *Omuik* in the Ngeuch Clan. Transcript of Hearing and Trial, Vol. II, *Sadao v. Ngikleb*, Civil Action No. 18-079 (Tr. Div. Feb. 21, 2022). This establishes that the new custom has been uniformly applied as every chief has needed *ourrot* approval but a *blengur* has not been needed at the time of selection. Similarly, the custom has been followed as law because the record shows that no *Omuik* was appointed through the sole occurrence of a *blengur* and no *Omuik* was appointed without the prior approval of the *ourrot*. Finally, the process of appointing the *Omuik* through the sole approval of the

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<sup>1</sup> The “new custom of Angaur State” refers to the unique process used in Ngermasech Hamlet to appoint a chief. This was thoroughly discussed in this Court’s February 21, 2022 Decision on Remand. The Court also notes that the use of the word “new” is relative to the history of Palau; the custom has been in practice since the 1970s. Transcript of Hearing and Trial, Vol. II, *Sadao v. Ngikleb*, Civil Action No. 18-079 (Tr. Div. Feb. 21, 2022). While the new custom appears to exist widely throughout Angaur, this Court narrowly applies its *Beouch* analysis on the customs of Ngermasech Hamlet as the testimony most strongly supports that a *blengur* is not required when appointing a chief in Ngermasech.

*ourrot* has occurred for over 50 years. Transcript of Hearing and Trial, Vol. II, *Sadao v. Ngikleb*, Civil Action No. 18-079 (Tr. Div. Feb. 21, 2022). While no precedent exists to establish what is a “sufficient period of time to be deemed binding” this Court believes the uninterrupted practice of the custom for multiple generations is more than sufficient.

### CONCLUSION

[¶ 4] For the foregoing reasons, and those set out in the Court’s October 3, 2019 and February 21, 2022 Decisions, the Court hereby declares that under traditional law, Lothain Sadao was properly appointed as *Omuik* of Ngeuch Clan by Ungilbesul Sadao and Mesiou Renguul. As *Omuik*, Lothain Sadao shall have authority over the felled trees or proceeds from the sale of such trees.

**SO ENTERED** this 21st day of September 2023.