

*Remeskang v. West*, 10 ROP 27 (2002)  
**YUSIM REMESKANG,**  
**Appellant,**

v.

**KOICHI WEST,**  
**Appellee.**

CIVIL APPEAL NO. 01-57  
LC/E 01-05

Supreme Court, Appellate Division  
Republic of Palau

Decided: November 20, 2002<sup>1</sup>

**L28**

Counsel for Appellant: Raynold B. Oilouch

Counsel for Appellee: Ernestine Rengiil

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice;  
DANIEL N. CADRA, Associate Justice Pro Tem.

Appeal from the Land Court, the Honorable J. UDUCH SENIOR, Associate Judge, presiding.

MILLER, Justice:

This is an appeal from the Land Court's determination of ownership regarding a land known as Urung, which is located in Ngebuked Hamlet, Ngaraard State, and designated as Bureau of Lands & Surveys Worksheet Lot Nos. 01E001-004 and 01E001-005. Claimants for the property were Appellee Koichi West and Appellant Yusim Remeskang. The Land Court awarded the property to Koichi following a May 2001 hearing. Yusim appeals.

### **BACKGROUND**

The disputed property was registered in the Ngaraard Tochi Daicho as the individual property of Yusim's adoptive father, Remeskang, who died in 1970. At the Land Court hearing, Martin Sokau testified that Remeskang showed Yusim his properties, including the one at issue here, and stated that they would go to Yusim after Remeskang died. Martin added that as to another parcel of land in Ngardmau, the conveyance from Remeskang to Yusim was upheld by a decision of the Supreme Court, Trial Division, which affirmed the Land Court.

Koichi testified that he was entitled to the disputed property under two theories. First, he

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<sup>1</sup>The parties waived oral argument, and the Court agrees that oral argument would not materially advance the resolution of this appeal.

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claimed to be the adopted child of Kekereldil, Remeskang's sister. Kekereldil and Remeskang co-owned some Palauan money, and the disputed property was later given to Remeskang as compensation after the Palauan money had wrongfully been given away by a third party. Second, Koichi testified that three or four years after the Japanese land survey, Remeskang gave the disputed property to Ucherriang, Koichi's biological mother, in exchange for a house. Later, Remeskang adopted both Ucherriang and Koichi. Another witness, Tadao Ngotel, who was 71 years old, also testified that Remeskang gave the property to Ucherriang in exchange for a house.

In its written decision, the Land Court found that (1) Remeskang orally transferred the disputed property to Ucherriang before his death, (2) the transfer was valid because it occurred prior to the enactment of the statute of frauds in 1977, and (3) as the son of Ucherriang, Koichi had the best claim to the disputed property. Yusim contends on appeal that the Land Court clearly erred in assessing the credibility of the witnesses, and in finding that the disputed property passed to Ucherriang pursuant to an exchange for a house.

## DISCUSSION

Findings of the Land Court are reviewed under the clearly erroneous standard. If the factual findings made by the Land Court are "supported by such relevant evidence that a reasonable trier of fact could have reached the same conclusion, those findings will not be set aside unless this court is left with a definite conviction that a mistake has been committed." *Tesei v. Belechal*, 7 ROP Intrm. 89, 90 (1998).

After carefully reviewing the record, **129** we cannot say that the Land Court clearly erred. The Land Court essentially found Koichi and his witness to be more credible than Yusim's witness. In doing so, we do not believe that the Land Court improperly relied upon hearsay testimony, *Osarch v. Wasisang*, 7 ROP Intrm. 82, 83 (1998) (holding that the Land Court may rely on hearsay), or improperly disregarded the inconsistencies Yusim mentions on appeal, *Umedib v. Smau*, 4 ROP Intrm. 257, 260 (1994) (providing that the appellate court will not substitute its own judgment of credibility of witnesses based on its reading of cold record for trial court's assessment of witness' veracity). Where more than one inference can be drawn from the testimony, and there are two permissible views of the evidence, the Land Court's choice is not clearly erroneous. *Arbedul v. Romei Lineage*, 8 ROP Intrm. 30, 31 (1999).

To the extent the Land Court believed Koichi and Tadao that Remeskang gave the property to Ucherriang in exchange for a house, the Land Court properly rejected Yusim's testimony that Remeskang bequeathed the disputed property to him. Evidence was presented in support of the claims of both parties, and the Land Court's findings were not so unreasonable that a reasonable trier of fact could not have made the same conclusion. *Tmol v. Ngirchoimei*, 5 ROP Intrm. 264, 265 (1996). Accordingly, we affirm the Land Court's determination of ownership.