

Children of Rengulbai v. Elilai Clan, 11 ROP 129 (2004)
CHILDREN OF OYAOL RENGULBAI,
Appellants,

v.

ELILAI CLAN,
Appellee.

CIVIL APPEAL NO. 02-058
LC/M 01-504

Supreme Court, Appellate Division
Republic of Palau

Argued: January 27, 2004

Decided: April 14, 2004

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Counsel for Appellant: J. Roman Bedor, T.C.¹

Counsel for Appellee: Raynold B. Oilouch

BEFORE: R. BARRIE MICHELSEN, Associate Justice; KATHLEEN M. SALII, Associate Justice; ROSE MARY SKEBONG, Associate Justice Pro Tem.

Appeal from the Land Court, the Honorable DANIEL N. CADRA, Senior Judge, presiding.

MICHELSEN, Justice:

Appellants challenge a Land Court determination of ownership for a parcel of land in Aimeliik State known as Emelkikoi, Lot Nos. 130 M 01, 130 M 033, and 130 M 36, which is the location of the IPSECO power plant. Because we find no clear error in the Land Court's findings, we affirm.

BACKGROUND

We need summarize the facts only briefly. Appellants, the children of Oyaol Rengulbai, claim that the land was given to Oyaol through her father, Mokokil, when she was a young child. Appellee Elilai Clan claims that Emelkikoi is part of a bigger parcel of land known as Imelsubech. It contends that Blulkei Clan gave Imelsubech to Elilai Clan as the "body of Ngirangeang" after Ngirangeang, the son of Telbong of Elilai Clan and Metelleklang of Blulkei Clan, died in a dynamite explosion while fishing. Appellee agrees that Mokokil (Oyaol's father and the older brother of Ngirangeang) was in charge of the land, but claims he held it for the Telbong Lineage of Elilai Clan, not for Oyaol.

¹Mr. Bedor failed to appear at oral argument and did not provide the Court an explanation for his absence.

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In 1980, the Palau District Land Commission issued a determination of ownership to Oyaol Rengulbai. Elilai Clan objected that the statutory requirements regarding notice had not been followed and successfully moved to have the ownership determination voided by the Trial Division. The case was remanded for a new hearing. Four years later, the case was returned to the Trial Division. Before trial, the claimants reached a settlement in related litigation with the Republic of Palau. Pursuant to the terms of that agreement, the parties stipulated that the litigant adjudged to be the owner of the land would transfer its interest to the government in exchange for \$290,626.49. The case was returned to the Land Court for resolution of the ownership question. After a week-long hearing, the Land Court issued a determination of ownership in favor of Elilai Clan. The Children of Oyaol filed a timely appeal, charging that the evidence presented did not support the Land Court's determination.

DISCUSSION

Appellants contend that the Land Court erred in finding that Emelkikoi was originally owned by Blulkei Clan and that the land was given to Elilai Clan. Consequently, Appellants argue, the Land Court erred in finding for Elilai Clan. To prevail, Appellants must show that the Land Court's findings were clearly erroneous and that "the findings so lack evidentiary support in the record that no reasonable trier of fact could have reached the same conclusion."

Ngerusebek Lineage v. Irikl Clan, 8 ROP Intrm. 183, 185 (2000). "It **L131** is not the appellate panel's duty to reweigh the evidence, test the credibility of witnesses, or draw inferences from the evidence," see *Ngeribongel v. Gulibert*, 8 ROP Intrm. 68, 70 (1999). Therefore, we must affirm the Land Court's determination as long as the Land Court's findings were "plausible." *Ongklungel v. Uchau*, 7 ROP Intrm. 192, 194 (1999).

Appellants have frequently appealed findings of fact, even though the Appellate Division has made clear it will only review such findings on a "clearly erroneous" basis. Although we have remanded cases with some regularity when the Land Court has failed to provide adequate reasoning for its decision or has made legal errors (neither of which Appellants claim here), this Court has found clear errors in a lower court's factual findings only once in more than 50 appeals in land cases over the past 10 years.² In that one case, "all the pertinent testimony" supported

²Cases in which this Court has found that a lower court's determination in a land case was not clearly erroneous include: *Palau Cmty. Coll. v. Ibai Lineage*, 10 ROP 143 (2003); *Anastacio v. Yoshida*, 10 ROP 88 (2003); *Mesebeluu v. Uchelkumer Clan*, 10 ROP 68 (2003); *Remeskang v. West*, 10 ROP 27 (2002); *Rechucher v. Ngiraked*, 10 ROP 20 (2002); *Tmarsel v. Ngerdelang Lineage*, 10 ROP 13 (2002); *Tbang Clan v. KSPLA*, 10 ROP 1 (2002); *Rechucher v. Ngirmeriil*, 9 ROP 206 (2002); *Sakuma v. ROP*, 9 ROP 183 (2002); *Ngerukebid Lineage v. KSPLA*, 9 ROP 180 (2002); *Tangelbad v. Siwal Clan*, 9 ROP 169 (2002); *Dilubech Clan v. NSPLA*, 9 ROP 162 (2002); *Iderrech v. Ringang*, 9 ROP 158 (2002); *Iyar v. Becheserrak*, 9 ROP 154 (2002); *Tengadik v. Bitlaol*, 9 ROP 120 (2002); *Estate of Ngiratechekii v. Otiwii*, 9 ROP 112 (2002); *Sugiyama v. Tikei Clan*, 9 ROP 73 (2002); *Tmiu Clan v. Ngerchelbuche Clan*, 9 ROP 43 (2001); *Tangadik v. Bitlaol*, 8 ROP Intrm. 204 (2000); *Sumang v. Baiei*, 8 ROP Intrm. 186 (2000); *Andres v. Desbedang Lineage*, 8 ROP Intrm. 134 (2000); *Ramon v. Silang*, 8 ROP Intrm. 124 (2000); *In re Rengiil*, 8 ROP Intrm. 118 (2000); *Ngetchab Lineage v. Klewei*, 8 ROP Intrm. 116 (2000); *Kerradel v. Besebes*, 8 ROP Intrm. 104 (2000); *Arbedul v. Rengelekel a Kloulubak*, 8 ROP Intrm. 97 (1999); *Lakobong v. Tebei*, 8 ROP Intrm. 87 (1999); *Sadang v. Ngersikesol Clan*, 8 ROP Intrm. 63 (1999); *Nakamura v. Markub*, 8 ROP Intrm. 39 (1999); *Kerradel v. Elbelau*, 8 ROP Intrm. 36 (1999); *Ngirakebou*

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Appellants' claim as to one section of the land at issue. *Ngerusebek Lineage v. Irikl Clan*, 8 ROP Intrm. 183, 185 (2000).

Here, in its meticulous 42-page determination, the Land Court methodically explored the substantial testimony and evidence on both sides, noting that "the evidence is actually quite muddled, allowing for conflicting inferences and findings." Each side emphasized particular evidence. For example, Appellants stress the fact that the Homestead Map created in 1960 lists the plot **L132** as "Land of Mokokil." But Appellee does not dispute that Mokokil was in charge of the land. Instead, it simply claims that Mokokil was acting as the Administrator of the land for Elilai Clan. In the end, the Land Court made its decision "largely on credibility determinations," and, as a finder of fact, it was entitled to do so. The Court wrote: "Having observed the testimony of all the witnesses, and stated as bluntly and simply as possible, the Court finds the testimony of Wilhelm Rengiil to be the most believable or credible." Mr. Rengiil, who was responsible for administering Mokokil's eldecheduch, said that Mokokil told him that Imelsubech, including Emelkikoi, belonged to Elilai Clan, Telbong Lineage. With Mr. Rengiil's testimony and the accompanying conflicting evidence, we cannot conclude that the Court's factual determinations were clearly erroneous. Accordingly, the determination of the Land Court is AFFIRMED.

v. Mechucheu, 8 ROP Intrm. 34 (1999); *Arbedul v. Romei Lineage*, 8 ROP Intrm. 30 (1999); *Rurcherudel v. PPLA*, 8 ROP Intrm. 14 (1999); *Matchiau v. Telungalek ra Klai*, 7 ROP Intrm. 177 (1999); *Estate of Etpison v. Sukrad*, 7 ROP Intrm. 173 (1999); *Sebal v. Tengadik*, 7 ROP Intrm. 149 (1999); *Uchelkeyukl Clan v. KSPLA*, 7 ROP Intrm. 98 (1998); *In re Kemaitelong*, 7 ROP Intrm. 94 (1998); *Tesei v. Belechal*, 7 ROP Intrm. 89 (1998); *Osarch v. Wasisang*, 7 ROP Intrm. 82 (1998); *Bandarii v. Obak*, 7 ROP Intrm. 56 (1998); *Lulk Clan v. Estate of Tubeito*, 7 ROP Intrm. 17 (1998); *Elewel v. Oiterong*, 6 ROP Intrm. 229 (1997); *Rechelulk v. Tmilchol*, 6 ROP Intrm. 1 (1996); *Andreas v. Masami*, 5 ROP Intrm. 205 (1996); *Ucherremasech v. Wong*, 5 ROP Intrm. 142 (1995); *Rebluud v. Fumio*, 5 ROP Intrm. 55 (1995); *Elbelau v. Semdiu*, 5 ROP Intrm. 19 (1994); *Umedib v. Smau*, 4 ROP Intrm. 257 (1994); *Remengesau v. Sato*, 4 ROP Intrm. 230 (1994); *Arbedul v. Mokoll*, 4 ROP Intrm. 189 (1994).