

Ebilklou Lineage v. Blesoch, 11 ROP 142 (2004)
EBILKLOU LINEAGE,¹
Appellant,

v.

NGIRUNGAI BLESOCH,
Appellee.

CIVIL APPEAL NO. 02-049
LC/E 01-698

Supreme Court, Appellate Division
Republic of Palau

Argued: February 23, 2004

Decided: May 20, 2004

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Counsel for Appellant: Johnson Toribiong

Counsel for Appellee: Salvador Remoket

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice;
KATHLEEN M. SALII, Associate Justice.

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

SALII, Justice:

Appellant Ebilklou Lineage filed this appeal challenging the determination of ownership of the Land Court. For the reasons set forth below, we affirm the decision of the Land Court.

BACKGROUND

This matter involves a determination of ownership for Tochi Daicho lot numbers 2076, 2077, 2078, 2085, and 2086 (“contested property” or “property”) belonging individually to Blesoch Bekerruul (“Blesoch”).² In July 1988, Blesoch executed a quitclaim deed transferring the contested property to his son, Appellee Ngirungai Blesoch (“Ngirungai”). After Blesoch’s death in 1992, several members of the Ebilklou Lineage sought the property on behalf of the Lineage. The dispute over ownership of the property culminated in a hearing before the Land Court on July 1, 2002.

¹Although various individuals filed claims before the Land Court, each asserted a claim on behalf of Ebilklou Lineage, and this appeal was filed in its behalf. The caption has accordingly been changed to reflect that the Lineage is the real party in interest.

²The lots have since been assigned Worksheet Lot Numbers 02E-004-38, 02E-004-28, and 02E-004-29.

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During the Land Court hearing, eleven witnesses testified that the land belonged to the Ebilklou Lineage. The testimony showed that during the Japanese land survey, Bekerruul was the head of the Ebilklou Lineage. The Lineage's witnesses sought to establish that Bekerruul told his son Blesoch to register himself as trustee for the contested property on behalf of the Ebilklou Lineage. Instead of registering himself as a trustee, they maintained that Blesoch registered the property as his own. They further testified that while the deed conveying the property to Ngirungai was in English, Blesoch did not speak, understand, or write in English.

Ngirungai, in his defense, testified that he received the deed from his father, but other than that, he had no knowledge as to who drafted the deed or the circumstances under which the deed was created. The deed was attested to by three witnesses and notarized by L144 the Clerk of Courts. However, Melilt Bekerruul, Blesoch's sister and a witness to the deed, testified that Ngirungai brought the deed to her residence and that she signed it without first having read it.

After weighing the conflicting evidence, the Land Court awarded the property to Ngirungai. Ebilklou Lineage appeals the determination of the Land Court.

STANDARD OF REVIEW

Land Court findings of fact are reviewed under a clearly erroneous standard. *Tesei v. Belechal*, 7 ROP Intrm. 89, 89-90 (1998).

ANALYSIS

Appellant Ebilklou Lineage first asserts that the Land Court's determination was clearly erroneous because it presented clear and convincing evidence that the Lineage owned the contested property.

Appellant has a difficult burden to meet in attempting to overcome the Tochi Daicho's presumption of correctness on appeal. *Temael v. Bitlaol*, 7 ROP Intrm. 197, 198 (1999). It must show not only that it presented sufficient evidence that, if credited by the Land Court, would amount to clear and convincing evidence that the listing was wrong, but also that the Land Court's failure to credit that evidence was clearly erroneous—that no reasonable fact finder could have concluded otherwise. *Id.* 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*, 7 ROP Intrm. at 90. In the instant case, eleven members of the Ebilklou Lineage attested to their belief that Blesoch held the land as a trustee for the Ebilklou. Against this testimony, the Land Court evaluated a Tochi Daicho listing showing Blesoch as the individual owner of the contested property. The Land Court also had before it the 1975 Palau District Land Commission land acquisition record wherein Blesoch claimed Tochi Daicho lot 2077 as his own individual property. When evaluating the evidence presented before it, the Land Court chose to give more weight to the Tochi Daicho evidence than the oral testimony of eleven interested parties.³ It is not the appellate panel's duty to reweigh the

³Appellant argues that the Land Court should have considered the large size of the contested property as a

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evidence, test the credibility of witnesses, or draw inferences from the evidence. *ROP v. Ngiraboi*, 2 ROP Intrm. 257, 259 (1991). Furthermore, this Court has previously stated that it is not error to credit assertions of ownership corroborated by Tochi Daicho listings over assertions of ownership uncorroborated by any extrinsic evidence. *Ngetchab Lineage v. Klewei*, 8 ROP Intrm. 116, 117-18 (2000); *see also Olngembang Lineage v. ROP*, 8 ROP Intrm. 197, 201 (2000) (finding that the court did not err in not crediting the testimony of witnesses over the Tochi Daicho listing). Based on the evidence presented at the Land Court hearing, it cannot be said that a reasonable trier of fact could not have reached the same conclusion. As a result, Appellant has failed to carry its burden of showing that the Land Court was clearly **L145** erroneous in finding that the contested property belonged individually to Blesoch.

Appellant next contends that the quitclaim deed transferring the property to Ngirungai was null and void because it was procured by fraud and undue influence. Appellant again asks this panel to impermissibly reweigh the evidence. Several of the Lineage's witnesses testified that they believed that Ngirungai wrongfully influenced Blesoch into signing the deed. However, beyond such self-serving assertions, Appellant failed to provide any evidence of exactly how Ngirungai purportedly influenced his father to convey the property. Ngirungai testified in his own behalf that he had no knowledge of the circumstances under which the deed was created.

Appellant has not demonstrated any reason to depart from this Court's usual deference to a trial court's factual findings. While the Land Court declined to draw certain inferences that could have benefitted Appellant, the record as a whole makes its conclusions plausible ones, which is sufficient to justify affirming the decision. *See Riumd v. Tanaka*, 1 ROP Intrm. 597, 601-03 (1989).

CONCLUSION

For the foregoing reasons, we affirm the determination of the Land Court.

factor supporting the theory of Lineage ownership. The record discloses that the Land Court was cognizant of the vast dimensions of the contested property. As such, the vastness of the property was but one of the factors evaluated by the Land Court in weighing the competing evidence.