

Pierantozzi v. Ueki, 12 ROP 169 (2005)
SANDRA PIERANTOZZI,
Appellant,

v.

MINAMI UEKI,
Appellee.

CIVIL APPEAL NO. 04-002
LC/M 01-757

Supreme Court, Appellate Division
Republic of Palau

Decided: September 15, 2005¹

Counsel for Appellant Pierantozzi: Ernestine K. Rengiil

Counsel for Appellee: J. Roman Bedor

BEFORE: LARRY W. MILLER, Associate Justice; KATHLEEN M. SALII, Associate Justice;
and LOURDES F. MATERNE, Associate Justice.

Appeal from the Land Court, the Honorable ROSE MARY SKEBONG, Associate Judge,
presiding.

PER CURIAM:

This is an appeal from the Land Court, which awarded ownership of Lots 03 M12-002 and Lot 03-M12-003 ("Lot 002 and Lot 003") in the Ngerkeai Hamlet of Aimeliik State to the Appellee, Minami Ueki ("Ueki"). On appeal, Sandra Pierantozzi contends that the Land Court erred in awarding a portion of one of the disputed lots to Ueki because that portion of the land was never conveyed to him. She contends that the Land Court's finding that Ueki's deed of conveyance and the corresponding survey map included the disputed portion of land is clearly erroneous. Finding that the evidence supports the Land Court's factual findings, we AFFIRM.

On October 15, 1979, Nona Luii ("Nona") and Isidora Takada conveyed Lot D on map SK 561/79 to Ueki in a deed of conveyance. On June 4, 1990, Nona and Isidora Takada executed a warranty deed conveying the land Klsobel to Pierantozzi.² The Land Court subsequently held proceedings to determine the ownership of Lots 002 and 003. Both Pierantozzi and Ueki filed claims of ownership. During the Land Court proceedings,

¹The Court has determined that oral argument would not materially assist in the resolution of this appeal. See ROP R. App. Pro. 34(a).

²Lot D is located on Klsobel.

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Pierantozzi's representative, Adair Sumang, conceded that Ueki owned the land known as Lot D because **¶170** the conveyance to Ueki took place prior to the conveyance to Pierantozzi. Sumang argued, however, that Lot D was not the same as Lots 002 and 003 on the worksheet. Specifically, Sumang contended that the jutting point of property he called Omcheloulmud Point ("the Point") was not a part of Lot D when it was sold to Ueki, and accordingly, remained in the possession of Luii and Takada to be conveyed to Pierantozzi in the 1990 warranty deed. Ueki, however contended that the Point was part of the land conveyed to him as Lot D in 1979.

Nona testified that she sold Lots 002 and 003 to Ueki. She stated that although she originally thought she had only sold Lot 002 to Ueki, she had a representative for the transaction with Ueki, and her representative told her that the land he sold Ueki went "all the way to the side of the ocean to share boundaries of the ocean." Although Nona also testified that Omecheloulmud was not the property of Ueki, the Land Court was unable to clarify what Nona meant by Omecheloulmud because she answered questions on this subject with "I don't know."

The Land Court found that the land conveyed to Ueki included the disputed area referred to as the Point because map SK-561/79 showed that Lot D extended from the road all the way out to the shoreline. The Land Court further noted that Nona's testimony supported this conclusion.

On appeal, Pierantozzi argues that both the map and Nona's testimony clearly show that the Point was not part of the land conveyed to Ueki. First, Pierantozzi notes that the Point has a jutting shape that is not represented on the map showing the boundaries of the property conveyed to Ueki. She also contends that it is clear from Nona's testimony that the Point was not conveyed to Ueki. We will review the Land Court's factual findings for clear error. *Children of Dirrabang v. Children of Ngirailild*, 10 ROP 150, 151 (2003).

We first address Pierantozzi's contention that the jutting shape of the Point is not represented on the map showing the property conveyed to Ueki. Although the shape of the property shown on the worksheet as Lots 002 and 003 does not line up exactly with the shape of the property shown on the survey map as Lot D, this does not clearly establish that the Point was not conveyed to Ueki. The survey map shows that the boundaries of Lot D, on the side where the Point is located, all extend to the shoreline. If the Point was not part of Lot D, then Lot D could not be completely bounded on that side by shoreline. The map thus supports the Land Court's findings as equally as it supports Pierantozzi's contentions. The Land Court's finding that the map supports Ueki's position is not clearly erroneous. See *Remeskang v. West*, 10 ROP 27, 29 (2002) ("Where more than one inference can be drawn from the testimony, and there are two permissible views of the evidence, the factfinder's choice is not clearly erroneous.").

We next address Pierantozzi's contention that Nona's testimony establishes that the Point was not conveyed to Ueki. She argues that it is clear from Nona's testimony that Nona did not even know what land was conveyed to Ueki and that her testimony is inconsistent with the deed and map. Although Nona's testimony was confusing, she clearly stated that her representative told her that the land sold to Ueki extended to the ocean. This supports the Land Court's finding that Nona's testimony supported Ueki because the Point borders the ocean. Although Pierantozzi

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contends that including the Point in the conveyance to Ueki would increase the size of 1171 Lot D to greater than 9,983 meters listed in the survey size, Pierantozzi did not enter evidence regarding this claim to the Land Court.³ Therefore, this Court cannot consider this claim now. *See Ngaraard State Pub. Lands Auth. v. Rechucher*, 10 ROP 11, 12 (2002) (parties waive issues not raised to the court below).

Pierantozzi has not established that the Land Court erred in finding that the map and Nona's testimony supported finding that the Point was a portion of Lot D as conveyed to Ueki in 1979, and accordingly, we affirm the determination of the Land Court.

³Nor has she provided the Appellate Division with any specific numbers beyond her mere assertion that the plot with the Point is larger.