

*Eklbai Clan v. Imeong*, 13 ROP 102 (2006)

**EKLBAI CLAN,  
Appellant,**

v.

**BEVOLI IMEONG and ISIDORO TAKISANG,  
Appellees.**

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**ELIA YOBECHE,  
Appellant,**

v.

**IYECHADERCHEMAI KALISTO JOSEPH and THE OURROT OF EKLBAI CLAN,  
Represented Herein by DIRRAMOWAI VALENTINA SUKRAD,  
Appellees.**

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**JOB KIKUO,  
Appellant,**

v.

**IYECHADERCHEMAI KALISTO JOSEPH and THE OURROT OF EKLBAI CLAN,  
Represented Herein by DIRRAMOWAI VALENTINA SUKRAD,  
Appellees.**

CIVIL APPEAL NO. 05-003  
Civil Action Nos. 99-261, 01-179, and 01-180

Supreme Court, Appellate Division  
Republic of Palau

Argued: December 14, 2005

Decided: April 28, 2006

Counsel for Appellants: Douglas F. Cushnie

Counsel for Appellees: Kevin N. Kirk

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice;  
J. UDUCH SENIOR, Associate Justice Pro Tem.

Appeal from the Supreme Court, Trial Division, the Honorable R. BARRIE MICHELSEN,

Associate Justice, presiding.

PER CURIAM:

### **BACKGROUND**

This appeal stems from three civil actions that were consolidated for trial. Civil Action No. 99-261, *Eklbai Clan v. Bevoli Imeong and Isidoro Takisang*, was initiated by Iyechaderchemai Kikuo Remeskang, the undisputed chief of Eklbai Clan. In the complaint filed on September 10, 1999, plaintiff alleged that defendants were trespassing on Tochi Daicho Lot No. 553, known as *Eklbai*, owned by Eklbai Clan, and located in Ngerchemai Hamlet and sought to eject them from said land. On June 25, 2001, following the death of Iyechaderchemai Remeskang, plaintiff Eklbai Clan filed a motion for leave to amend the complaint to ¶103 reflect that Elia Yobech (“Yobech”) had been appointed Iyechaderchemai and that he did not approve of the defendants’ presence on Eklbai Clan property.

On July 30, 2001, Kalisto Joseph (“Joseph”) and the purported ourrot of Eklbai Clan, represented by Dirramowai Valentina Sukrad (“Sukrad”), filed Civil Action No. 01-179, *Kalisto Joseph v. Elia Yobech*, a complaint for declaratory and injunctive relief. Joseph alleged that on June 1, 2001, the ourrot of Eklbai Clan conferred the title of Iyechaderchemai on him and that, on the same date, the council of chiefs of Ngerchemai Hamlet consented to his appointment. Joseph requested that the trial court declare him the male title holder of Eklbai Clan and enjoin Yobech from acting on Eklbai Clan’s behalf. Yobech filed an answer and counterclaim, which alleged that he had been appointed senior title holder by Uchelbil ra Kumer Ibau Oiterong and the true ourrot of Eklbai Clan on January 15, 2001. Yobech further asserted that on May 5, 2001, the council of chiefs consented to his appointment. The counterclaim also sought injunctive relief prohibiting the supporters of Joseph from presenting themselves as the ourrot of Eklbai Clan.

On August 1, 2001, Joseph and Sukrad filed Civil Action No. 01-180, *Kalisto Joseph v. Job Kikuo*, a complaint seeking to enjoin the activities of defendant Job Kikuo on Cadastral Lot No. 024 B 07, a land known as Iosch and owned by Eklbai Clan. Joseph claimed that neither he, as Iyechaderchemai of Eklbai Clan, nor the ourrot of Eklbai Clan had approved Kikuo’s earth moving and other activities on the land. Job Kikuo answered that he had the permission of former Iyechaderchemai Remeskang to use the land and continued to have permission from the senior strong members of Eklbai Clan, including Iyechaderchemai Yobech.

In its Findings of Fact and Conclusions of Law, the trial court declined to issue a judgment in Civil Action No. 01-179 by declaring who holds the senior male title of Eklbai Clan. The trial court found it unnecessary to grant relief because it was clear that the appropriate council recognized Joseph as Iyechaderchemai; and accordingly, Yobech’s assertion that he holds the title carried no weight. In light of the council’s recognition of Joseph as Iyechaderchemai, the court concluded in Civil Action No. 99-261 that Defendants Imeong and Takisang were not trespassing because they had the permission of Eklbai Clan through Joseph. Finally, finding that Joseph had proved by a preponderance of the evidence that he held the title of Iyechaderchemai,

*Eklbai Clan v. Imeong*, 13 ROP 102 (2006)

the court concluded in Civil Action No. 01-180 that Job Kikuo's activities on Iosch were unauthorized because he claimed permission from Yobech, who had not met his burden of proving that he was Iyechaderchemai. In an amended judgment, the court enjoined Kikuo from any further activities on Iosch and ordered him to restore the land to its original condition.

Eklbai Clan, Yobech, and Job Kikuo appealed from the trial court's initial judgment. Appellants argued that they represented the true ourrot of Eklbai Clan and that their selection of the male title bearer, once accepted, could not be unilaterally annulled by the council of chiefs. Appellees countered that the findings of the trial court were not clearly erroneous because evidence had been presented at trial that Joseph was appointed by the true ourrot of Eklbai Clan. In this Court's October 14, 2003, opinion, we noted that the "vast majority of the evidence before the trial court concerned the customs surrounding the selection of a senior title-holder and subsidiary factual issues such as ¶104 who the proper ourrot of Eklbai Clan were, which person had been selected by them, and which person had been validly accepted by the council." However, as both parties presented evidence that they were selected by the ourrot and accepted by the council of chiefs, the trial court's findings of fact and conclusion that Joseph had established by a preponderance of the evidence that he was Iyechaderchemai were not specific enough for adequate review. Although it was apparent that the trial court had accepted Joseph's evidence, the trial court's reasons for reaching its conclusion remained unclear. This Court further stated:

One reading of the trial court's decision is that it found that Joseph's supporters were the true ourrot of Eklbai Clan, that they had validly selected him as Iyechaderchemai, and that the Ngerchemai council of chiefs had validly accepted him under Palauan custom. It is also possible to read the trial court's opinion, however, as bypassing any resolution of who the ourrot of Eklbai were and concluding that as a matter of Palauan custom the current acceptance of Joseph by the council of chiefs was in itself a sufficient basis to find that he holds the title of Iyechaderchemai. We do not mean to suggest that these are the only alternatives; we note simply that our review of the trial court's judgment would be assisted by a fuller explanation of how its findings were reached.

The case was then remanded to the trial court with instructions to state its findings with greater specificity.

On December 4, 2003, the trial court issued its Response on Remand. With respect to Civil Action No. 99-261, *Eklbai Clan v. Bevoli Imeong and Isidoro Takisang*, the trial court found it dispositive that Elia Yobech was not, at the time of the ejectment action, recognized as Iyechaderchemai by the council of chiefs. The trial court concluded that whether Yobech had been rejected by the council of chiefs or was accepted but then improperly divested of title, was of no import because his burden in an ejectment action was to establish that he held title to the land; and under either one of the aforementioned theories, Yobech did not hold title to the land. The trial court left open the possibility of Yobech directly suing the council of chiefs in order to establish his position as Iyechaderchemai, but saw no need to reach the merits of that claim in the context of the ejectment action.

*Eklbai Clan v. Imeong*, 13 ROP 102 (2006)

With respect to Civil Action No. 01-179, *Joseph v. Yobech*, the trial court posited in its Response on Remand that Yobech had never appealed the dismissal of the declaratory relief action. Recognizing that Yobech had requested the Appellate Division to reverse “the Trial Division’s determination as to the holder of the Iyechaderchemai title,” the trial court contended that because it had never made a determination to that effect, Yobech had not appealed its holding in Civil Action No. 01-179.

In considering Civil Action No. 01-180, *Joseph v. Kikuo*, the trial court discounted Job Kikuo’s contention that Yobech holds the title Iyechaderchemai because neither Yobech nor the council of chiefs were made a party in the action. On the other hand, the trial court found that Joseph **L105** had demonstrated by a preponderance of the evidence that he held the title of Iyechaderchemai. As such, Joseph had met his burden in the ejectment action.

This Court then invited the parties to reevaluate their arguments in light of the trial court’s augmented analysis in the Response to Remand. Appellants filed a supplemental brief arguing that the trial court had misapprehended the pleadings and proof and had failed to address the issues presented. Appellants argued that the trial court’s determination that they could not attack the seating of Joseph by the council of chiefs because the council of chiefs was not a party to the proceedings did not address the actual arguments pled before the court. The actual argument presented by Appellants in Civil Action No. 99-261 was that they comprise the true members of Eklbai Clan and had a right to live on the land by permission of the senior strong members of the Clan. Therefore, the dispute was not over who is Iyechaderchemai, but rather who constitutes the senior strong members of the Clan. Appellants asserted that their primary concern was the determination of clan membership, from which the determination of Iyechaderchemai would naturally stem. According to Appellants, the conduct of the council of chiefs, as addressed by the trial court, was completely ancillary to both the pleadings and the arguments presented to the court.

Appellees filed a supplemental brief, painting Civil Action No. 99-261 as a straightforward ejectment action, and not a clan membership case. As an ejectment action, Appellants had to meet their burden of proof that Yobech was Iyechaderchemai. Appellees argued that Appellants could not meet this burden because Yobech was not recognized by the council of chiefs. Likewise, Appellees characterized Civil Action No. 01-180 as an ejectment action wherein Joseph had met his burden of proving that he was the senior title holder. Appellees asserted that the trial court’s judgment was supported by relevant evidence and was not clearly erroneous. Furthermore, Job Kikuo never pled or testified that the strong female and male members of the clan consented to his use of the property, as is required by custom. Finally, Appellees maintained that it was proper for the trial court to refuse to issue a declaratory judgment in Civil Action No. 01-179.

By opinion dated November 22, 2004, we discussed an unwillingness to hold that a klobak’s acceptance of an ourrot’s nomination for title-holder creates an un rebuttable presumption that the group presenting the proposed Iyechaderchemai constitutes the true senior strong members of the clan. Although the opinion allowed for consideration of the klobak’s acceptance in determining the true senior strong members of a clan, the opinion made clear that

*Eklbai Clan v. Imeong*, 13 ROP 102 (2006)

the trial court must consider all other evidence presented by the parties. Accordingly, these consolidated actions were remanded and the trial court instructed to make “a determination of which clan faction – the faction represented by Yobech or the faction represented by Joseph – should be recognized as being the strong senior members of the Clan.”

On December 23, 2004, the trial court issued Additional Findings of Fact Upon Remand. In these findings, the trial court first discussed Ibau Oiterong’s testimony in support of the Yobech faction. The court noted that Oiterong’s assertion that she holds the highest female title of Eklbai Clan, Uchelbil ra Kumer, was contradicted by Ibedul Yutaka M. Gibbons’ testimony that the title of Uchelbil ra Kumer was “hanging” in the possession of the Idid Clan and had not ¶106 been given to any person for a long period of time. The trial court further observed that Oiterong’s testimony as to who previously had held the title of Iyechaderchemai was largely unsupported by other witnesses or historical documents. In considering the Joseph faction’s evidence, the trial court found it significant that Ngirameong, Joseph’s great uncle who is alleged to have held the title of Iyechaderchemai, resided on the parcel of land called *Eklbai* and was named as trustee in the Tochi Daicho for most, if not all, of Eklbai Clan’s land. The trial court noted that the Yobech faction attempted to discredit the Joseph faction’s claim that Ngirameong was Iyechaderchemai by asserting that he had been merely a “drifter” into the Clan. Although acknowledging that anything is possible, the trial court found the unsupported testimony that Ngirameong was a drifter unconvincing and that the Joseph faction’s testimony “was credible, conformed to the historical record, and did not require the adoption of any exceptions to the usual rules of Palauan custom.” The trial court continued that in the usual case Ngirameong would have been an ochell member of Eklbai Clan as title-holder; and therefore, concluded that the Joseph faction comprised the senior strong members of the Clan.

As further support, the trial court next discussed the klobak’s acceptance of Joseph as Iyechaderchemai. Relying solely on the testimony of Obechad Hiromi Rdiall, the second ranking chief in the Ngarabelau, the trial court found evidence of the klobak’s acceptance of Joseph appropriate and relevant in determining the senior strong members of Eklbai Clan because “the klobak must, of necessity, determine that it was the ourrot of [the] Clan who made the nomination.” As the trial court found that the Joseph faction comprised the senior strong members of Eklbai Clan, judgment was entered in favor of Imeong and Takisang in Civil Action No. 99-261. In Civil Action No. 01-180, the trial court held that an injunction should issue prohibiting Job Kikuo from conducting any activities on Iosch because he had failed to get permission from the senior strong members of Eklbai for his activities on the land.

On January 19, 2005, Eklbai Clan, Yobech, and Job Kikuo filed the instant appeal. Appellants first challenge the trial court’s reliance on certain evidence in determining the senior strong members of Eklbai Clan. Specifically, Appellants assert that the trial court erroneously concluded that: (1) the Joseph faction possessed ancestral ties with stronger members of Eklbai Clan than the Yobech faction; (2) Ngirameong, through whom the Joseph faction is connected to Eklbai Clan, was Iyechaderchemai, particularly when Ibau Oiterong testified Ngirameong was merely a drifter; and (3) a preponderance of the evidence demonstrated that Joseph was Iyechaderchemai where the Yobech faction had presented evidence that Yobech and his predecessors performed the required customary ceremonies in order to receive the title and the

*Eklbai Clan v. Imeong*, 13 ROP 102 (2006)

Joseph faction had presented no such evidence. Appellants argue that these conclusions were erroneous in light of the evidence introduced at trial.

The Yobech faction also argues that the trial court once again erroneously relied on the klobak's acceptance of Joseph as Iyechaderchemai when determining who comprises the senior strong members of Eklbai Clan. Appellants continue that the trial court essentially ignored this Court's November 22, 2004, opinion, in which we held that the klobak's acceptance of a nominee as Iyechaderchemai can be taken into consideration but should not be considered to create an un rebuttable presumption that the individuals who presented the Iyechaderchemai are the true ourrot of the clan. Appellants submit that Job Kikuo properly constructed a warehouse and sawmill on Iosch because he was given permission to do so by his father, Iyechaderchemai Kikuo Remeskang, and the senior strong members of the clan, represented by the Yobech faction, have not revoked that permission. 1107

### ANALYSIS

In remanding this action to the trial court, we held that the trial court erred in deciding that the acceptance of Joseph as Iyechaderchemai by the council of chiefs was in itself sufficient support to find that the Joseph faction represents the senior strong members of Eklbai Clan. As the title belongs to the Clan and not to the council,<sup>1</sup> we made it clear that the klobak's acceptance of an ourrot's nomination for title-holder alone is insufficient to ascertain the true senior strong members of a clan and that a trial court must consider all other evidence regarding clan membership presented by the parties when making such a determination. On remand, in deciding that the Joseph faction represented the senior strong members of Eklbai Clan, the trial court relied for the first time on evidence beyond the klobak's acceptance of Joseph as title-holder. A careful review of the trial court's decision and the record below reveals that while the trial court did not ignore our mandate, its consideration of additional evidence was cursory and insufficient to demonstrate that the decision was based on an adequate analysis of the evidence beyond the council's acceptance of Joseph as Iyechaderchemai. Although a trial court need not discuss all the evidence relied on to support its conclusion, the court's decision must "reveal an understanding analysis of the evidence, a resolution of the material issues of 'fact' that penetrate beneath the generality of ultimate conclusions, and an application of the law to those facts." *Fritz v. Blailes*, 6 ROP Intrm. 152, 153 (1997) (quoting 5A James Wm. Moore et al., *Moore's Federal Practice* ¶ 52.05[1] (1984)).

In the Additional Findings of Fact Upon Remand, the trial court first discussed the testimony of Ibau Oiterong, who the Yobech faction recognizes as Uchelbil ra Kumer, the highest female title of Eklbai Clan. The trial court discredited Oiterong's testimony that she holds this title based on Ibedul's testimony that the title was "hanging" in the possession of Idid Clan. The trial court continued that Ibedul was in a position to know because Idid Clan originally gave Eklbai Clan their property in Ngerchemai Hamlet. The court's summary dismissal of Oiterong's claim to the title based on Ibedul's testimony alone completely fails to reveal any analysis or reasoning for rejecting the extensive evidence in the record supporting Oiterong's claim to the title. At trial, in addition to Oiterong's own testimony, Tipkang Nakamura, Ilong Isaol, and Job

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<sup>1</sup>See *Sato v. Ngerchelong State Assembly*, 7 ROP Intrm. 79, 81 (1998).

*Eklbai Clan v. Imeong*, 13 ROP 102 (2006)

Kikuo all testified that they recognize Oiterong as Uchelebil ra Kumer. Further, although testifying for the Joseph faction, Keity Bandarii, Hiromi Rdiall, and Valentina Sukrad all testified that Oiterong is referred to by this title in Ngerchemai, the Hamlet in which Eklbai is the highest ranking Clan. Although Joseph testified that he had not heard others call Oiterong by the title, he acknowledged that Oiterong's family calls her Uchelebil ra Kumer. Finally, Erica Ngirausui referred to Oiterong as Uchelebil ra Kumer during her testimony regarding other matters. In addition to this testimony, the Yobech faction entered Joint Resolution No. 6-52 of the Sixth Koror State Legislature into **L108** evidence, which commemorated the lifetime and achievements of Iyechaderchemai Kikuo Remeskang and recognized Oiterong, Kikuo Remeskang's sister, as Uchelebil ra Kumer. This Resolution was concurred to by the House of Traditional Leaders and signed by Ibedul. In light of this considerable evidence that Oiterong is recognized by her family and the community as Eklbai Clan's highest female title-holder, the trial court's reason for rejecting the contention that Oiterong is Uchelebil ra Kumer clearly provides an inadequate analysis of the evidence for this Court to review. The trial court provided no explanation for concluding that Ibedul's testimony should determine the matter and carry more weight than the testimony of seven other individuals, some of whom were testifying for the opposing party.<sup>2</sup>

Next, the trial court rejected Oiterong's testimony regarding her ancestors who previously held the title of Iyechaderchemai without any explanation other than to state that her "assertions were largely unsupported by other witnesses or . . . historical documents." At trial, Oiterong identified previous title-holders spanning five generations. Far from being unsupported by other witnesses or historical documents, Oiterong's testimony that two of her brothers held the title Iyechaderchemai was supported by the testimony of witnesses for both parties and by documents entered into evidence.<sup>3</sup> Oiterong's testimony regarding Iyechaderchemai Keremius, who she asserted held the title two generations before her brothers, was supported by the testimony of Elia Yobech, Tipkang Nakamura, and Ilong Isaol. Thus, it is clear that there was evidence in the record to support Oiterong's testimony as to previous title-holders and that the trial court's unexplained rejection of her testimony as unsupported is an inadequate analysis to enable us to review the trial court's conclusions.

After rejecting the Yobech faction's evidence as unsupported, the trial court discussed the Joseph faction's evidence that Joseph's uncle, Ngirameong, held the title of Iyechaderchemai. The trial court found this evidence credible and in conformance with the historical record

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<sup>2</sup> We recognize that there may have been valid reasons for the trial court to reach this conclusion, however, we are unable to review those reasons where the basis for the decision is unexplained.

<sup>3</sup> All of the witnesses testified that Oiterong's brother Kikuo Remeskang was Iyechaderchemai, although Keity Bandarii asserted that he had taken the title from his brother without following custom. Keity Bandarii, who was a witness for the Joseph faction, as well as two witnesses for the Yobech faction also testified that Oiterong's other brother, Sumang Demei, properly held the title before Kikuo. Furthermore, the record includes evidence that both Kikuo and Sumang were Iyechaderchemai. In the judgment for Civil Action Number 25-75, the Land Court recognized the right of Sumang to administer Eklbai Clan land as Iyechaderchemai. (Pls.' Ex. 4). The Land Claims Hearing Office issued an Adjudication and Determination in Formal Hearing 12-27-95, finding it undisputed that Kikuo bore the title Iyechaderchemai. Pls.' Ex. 4. In addition, upon Kikuo's death, the Koror State Legislature issued a joint resolution commemorating Kikuo's achievements as Iyechaderchemai. Pls.' Ex. 6.

*Eklbai Clan v. Imeong*, 13 ROP 102 (2006)

because Ngirameong's name appeared in the Tochi Daicho for most Eklbai Clan land. The trial court scoffed at the Yobech faction's assertion that Ngirameong was a drifter and again found their testimony unsupported. Although the trial court concluded that the Joseph faction's testimony on the matter was credible, this finding alone cannot overcome the completely unexplained rejection of the Yobech faction's considerable evidence that their ancestors have held the title of Iyechederchemai for several generations. 1109

Finally, the trial court once again turned to the klobak's acceptance of Joseph as Iyechederchemai as support for its conclusion that the Joseph faction represents the senior strong members of Eklbai. The trial court noted our acknowledgment that a klobak's acceptance of a title-holder may be taken into consideration when determining the senior strong members of a clan before citing testimony by Obechad Hiromi Rdiall that the klobak had accepted Joseph as Iyechederchemai. The trial court found:

[t]his evidence . . . appropriate and relevant because in deciding whether to accept an ourrot's nominee, the klobak must, of necessity, determine that it was the ourrot of [the] Clan who made the nomination. The Yobech faction introduced no evidence that under customary law, the klobak's acceptance of a particular group as the ourrot of a Clan is reviewable by some other authority.

Thus, it is clear that the trial court once again relied on the klobak's acceptance of Joseph as Iyechederchemai in determining the senior strong members of Eklbai Clan. As we explained in our previous opinion remanding this action to the trial court, there may be some instances where the klobak's acceptance has evidentiary value, but the trial court must "also consider all other evidence that the parties have presented on that score." Although it is clear that the trial court gave some consideration to evidence beyond the klobak's acceptance of Joseph when determining the senior strong members of Eklbai Clan, the court's summary rejection of the Yobech faction's evidence without explanation does not provide an adequate analysis of that evidence for us to review. Accordingly, we will vacate and remand for further proceedings in accordance with this opinion.

Our decision today should in no way be interpreted to suggest that the Yobech faction should prevail over the Joseph faction as there is abundant evidence in the record on both sides, and we specifically reject the Yobech faction's suggestion that we now enter judgment in their favor. Instead, in light of the trial court's previous reliance on the klobak's acceptance of Joseph as Iyechederchemai as outcome determinative and the cursory explanation for rejecting the Yobech faction's evidence on remand, we simply are not convinced that the Yobech faction's evidence was given fair consideration. As the original trial judge is no longer on the Court, the new judge assigned to this action should review the record, consider all of the evidence presented, and make findings as to who comprises the senior strong members of Eklbai Clan.<sup>4</sup>

MILLER, Justice, concurring:

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<sup>4</sup> We leave to the sound discretion of the trial judge whether to rehear any or all testimony of the witnesses.

*Eklbai Clan v. Imeong*, 13 ROP 102 (2006)

I concur fully in the opinion of the Court. Without in any way denigrating the hard work Justice Michelsen put into this case over the years and in responding to our remand orders, I share the Court's concern **L110** that his weighing of the evidence was inevitably affected by his view that the klobak's acceptance of a purported title-holder is conclusive evidence that those who appointed him were the true ourrot of the clan. In particular, I believe that the final sentence of Justice Michelsen's Additional Findings of Fact Upon Remand, to the effect that "[t]he Yobech faction introduced no evidence that . . . the klobak's acceptance of a particular group as the ourrot of a Clan is reviewable by some other authority," imposed an inappropriate legal burden on the Yobech faction that foreclosed an even-handed consideration of the evidence it presented.

I write separately to emphasize why, in this case in particular, the evidence that the klobak had accepted Joseph as Iyechaderchemai was not only not determinative, but of little or no evidentiary value in deciding whether the Yobech faction or the Joseph faction constituted the true ourrot of Eklbai Clan. <sup>5</sup> Justice Michelsen wrote that "in deciding whether to accept an ourrot's nominee, the klobak must, of necessity, determine that it was the ourrot of [the] Clan who made the nomination." That sounds logical, and it is. But on the same logic, the klobak that accepted Kikuo Remeskang as Iyechaderchemai and sat with him for twenty years must have determined that his relatives were the true ourrot of Eklbai Clan. That is to say, on the theory that acceptance by a klobak is conclusive proof of the true membership of a clan, the record in this case contains conclusive proof both that the Joseph faction constitutes the true members of Eklbai Clan, and that the Yobech faction constitutes the true members of Eklbai Clan. Indeed, as the procedural history recounted in the Court's prior opinion makes clear, if Kikuo Remeskang had lived a little bit longer or if this case had come to trial a little faster, the trial court, applying its own logic to entirely the same evidentiary record, would have reached entirely the opposite result. And that is not logical at all.

I have said before that these kinds of cases are extremely difficult, and I wish that there were a better way to deal with them (or better yet that there were fewer such disputes to begin with). But until there is a better way, I think it would be unfair for us to abdicate our role in adjudicating these cases, or to yield our authority by simply accepting the status quo as binding upon the Court.

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<sup>5</sup> I would also note that the testimony of Ibedul Yutaka Gibbons, on which the trial court placed so much weight in rejecting the Yobech faction's evidence, was also of little or no value in this regard, not because it was in any way unreliable or untruthful, but because he simply did not express a view on this question. Although Ibedul contradicted Ibau Oiterong on the one point noted by the Court, and although he noted the reasons why he believed Kalisto Joseph was a better choice than Elia Yobech to become Iyechaderchemai, he did not say that the Joseph faction constituted the true members of Eklbai to the exclusion of the Yobech faction. In fact, he suggested the contrary, stating that if Yobech's name had been presented to the Council of Chiefs, they would have accepted him too.