

Singeo v. Ngaraard State Pub. Lands Auth., et al., 14 ROP 102 (2007)
ULDEKL SINGEO,
Appellant,

v.

**NGARAARD STATE PUBLIC LANDS AUTHORITY and CHILDREN OF
NGIRNGEMEUSECH TENGADIK,
Appellees.**

CIVIL APPEAL NO. 06-033
LC/E 00-317, 00-318 & 00-319

Supreme Court, Appellate Division
Republic of Palau

Argued: April 17, 2007

Decided: April 18, 2007

Counsel for Appellant: Carlos H. Salii

Counsel for NSPLA: William L. Ridpath

Counsel for Tengadik: Siegfried B. Nakamura

BEFORE: LARRY W. MILLER, Associate Justice; LOURDES F. MATERNE, Associate Justice; and JANET HEALY WEEKS, Part-Time Associate Justice.

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

MILLER, Justice:

Appellant Singeo raises numerous complaints in her appeal, but most relate to her submission of documentary evidence more than three years after the initial Land Court hearing. The Land Court fairly exercised its discretion in resolving not to accept this new evidence. This Court is unable to review claims that the Land Court abused its discretion when it chose not to hold further evidentiary hearings because a transcript of that portion of the Land Court's decision was not provided. Accordingly, we affirm the determination of the Land Court.

BACKGROUND

The Land Court began hearing this matter on September 23, 2002, before Part-time Associate Judge Ernestine K. Rengiil. When medical problems prevented Judge Rengiil from rendering a decision for L103 more than three years, Senior Land Court Judge Senior issued a decision based on the record of the hearing. According to Judge Senior's Land Court decision, "the matter was deemed under submission for decision after claimants presented their

Singeo v. Ngaraard State Pub. Lands Auth., et al., 14 ROP 102 (2007) oral closing argument.” Appellant Singeo did not attend the September 2002 Land Court hearing presided over by Judge Rengiil, but had previously submitted a written claim for the property.

Prior to issuing her decision, Senior Judge Senior held a status conference and issued an order on May 26, 2006, allowing parties to submit “any and all written submissions to supplement the record of the hearing before [the] Part-Time Associate Judge.” A subsequent order extended that deadline. Appellant Uldekl Singeo filed her closing arguments before the first deadline and attached pieces of documentary evidence (hereinafter “eight documents”) to her written closing argument. At the same time, Appellant Singeo filed a motion for a further evidentiary hearing.

After Appellant Singeo’s submission, Appellee Children of Ngirngemeusech Tengadik filed a motion requesting a clarification of the scope of written submissions allowed under the court’s order. That motion specifically queried whether claimants could offer evidence that was not presented during the 2002 hearing. Judge Senior responded in an order on June 20, 2006, which stated, “With respect to written submissions, claimants may submit closing argument if they did not [do] so at the end of the September 2002 hearing or submit additional argument to their closing argument based on the evidence in the record.” A hearing on Singeo’s motion for a further evidentiary hearing was held on August 21, 2006, and following that hearing, Judge Senior issued an order denying further evidentiary hearings “[b]ased on the reasons stated in open court.”

The Land Court decision did not refer to the eight documents, but stated that “[t]he only evidence offered in support of [Singeo’s] claim is the written claim form.” Pursuant to this finding, the Land Court determined that Singeo had failed to prove either that the Japanese government had acquired the land by unlawful taking or that her father was the original owner of the land. Singeo’s claim to the land was therefore denied.

Appellant Singeo’s Notice of Appeal waives the transcript of the Land Court proceedings, but designates many of the eight documents she submitted to the Land Court as the record on appeal. In particular, a transcript of the hearing on Singeo’s motion for a further evidentiary hearing was not provided to this Court. Although Singeo’s designation originally included some documents not previously submitted to the Land Court, these additional documents were stricken from the record upon Appellees’ objection. While the eight documents previously submitted to the Land Court were not stricken from the record, this Court reserved judgment on the ultimate question of their admissibility.

STANDARD OF REVIEW

In evaluating evidentiary rulings, this Court accepts that “[t]he admission or exclusion of evidence is a matter particularly suited to the broad discretion of the trial Judge.” *King v. ROP*, 6 ROP Intrm. 131, 139 (1997) (quoting *In re Merritt Logan, Inc.*, 901 F.2d 349, 359 (3d Cir. 1990)). This Court will not reverse decisions to admit or exclude evidence unless the Land Court abused its discretion. *Temaungil v. ROP*, 9 ROP 139 (2002); *Ngiraked v. ROP*, 5 ROP Intrm. 159 (1996).

ANALYSIS

Most of Appellant's arguments are premised on the assumption that the Land Court admitted into evidence the eight documents attached to her closing argument. She asks that this Court reverse the Land Court's determination based on those documents, or in the alternative, that it remand this case to the Land Court for further consideration of the import of those documents. Upon consideration of the record as a whole, however, we conclude that this premise is faulty.

The Land Court issued several orders in its attempt to ensure that all parties had the opportunity to complete their closing arguments in this proceeding, which, due to peculiar circumstances, had been pending for more than three years. Although the Land Court's order of May 26, 2006, imprecisely allowed for the submission of "any and all written submissions to supplement the record of the [2002] hearing," the order of June 20, 2006, explicitly states that claimants are allowed to submit "closing argument if they did not [do] so at the end of the September 2002 hearing or submit additional argument to their closing argument ***based on the evidence in the record.***" (Emphasis added)

The court's order, as clarified, allowed Appellant Singeo to submit a written closing argument based on the evidence which she had presented before the initial 2002 Land Court hearing. Since she failed to attend that hearing, however, the only evidence Singeo properly had before the Land Court was, as the court noted, her written claim to the land. We thus have no basis to fault the Land Court for its failure to consider the eight documents. Moreover, Appellant has made no argument that the Land Court was required to accept the newly-proffered documents into evidence. While the Land Court might have acted within its discretion to re-open the record, it was certainly not required to do so in the circumstances presented below.

The Appellate Division's order of December 18, 2006, likewise did not serve to admit the eight documents into evidence. While the order allowed those documents to remain part of the record subject to review on appeal, we find that those documents were properly disregarded by the court below.

Appellant also argued that the Land Court abused its discretion in denying her motion for a further evidentiary hearing. As noted above, that motion was opposed by Appellees Ngaraard State Public Lands Authority and Children of Tengadik, and the Land Court heard testimony from Appellant and arguments on this motion on August 21, 2006. No transcript of this hearing was provided to the Appellate Division for review. In a similar case where an Appellant waived the transcript and yet attempted to challenge evidentiary rulings, this Court held:

we cannot review evidentiary rulings without the appropriate parts of the transcript. A party 105 who seeks review of a ruling on evidence must show that substantial rights were affected, and that the appellant's motion or objection was either apparent from the context, or made known to the court. ROP R. Evid. 103(a). In the absence of a transcript, the evidentiary objections of the Municipalities are outside the scope of our review. *Fanna v. Sonsorol State Gov't*,

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8 ROP Intrm. 9, 9 (1999).

Although Appellant claims that the Land Court abused its discretion in failing to grant her motion, without a transcript, no review of this decision can be made.

CONCLUSION

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