

*Kawang Lineage v. Meketii Clan*, 14 ROP 145 (2007)

**KAWANG LINEAGE,  
Appellant,**

v.

**MEKETII CLAN,  
Appellee.**

CIVIL APPEAL NO. 06-036  
LC/E 00-309 and LC/E 00-0314

Supreme Court, Appellate Division  
Republic of Palau

Decided: August 24, 2007<sup>1</sup>

Counsel for Appellant: J. Roman Bedor

Counsel for Appellee: Yukiwo P. Dengokl

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

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

MILLER, Justice:

Appellant Tadao Ngotel challenges the Land Court's determination awarding to Appellee Meketii Clan ownership of the land known as *Orateruul*.<sup>2</sup> Having considered the arguments of the parties, we affirm the determination of the Land Court.

The parcels of land in dispute are Tochi Daicho Lots 3 and 49, or Lot 001 E 11-A and 001 E 11-B in Choll Hamlet of Ngaraard State. Both parties agree that *Orateruul* was originally owned by Temedad. The Land Court found that the Japanese government forcefully took *Orateruul* away from Temedad without compensation. The **¶146** Land Court determined that Kalistus Wasisang was Temedad's heir, and through quitclaim deeds from Wasisang to Meketii Clan, Meketii Clan became the fee simple owner of *Orateruul*.

Appellant Kawang Lineage, represented by Tadao Ngotel, claims that the Land Court

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Upon reviewing the briefs and the record, the panel finds this case appropriate for submission without oral arguments pursuant to ROP R. App. P. 34(a).

<sup>2</sup>

The land is also referred to by Meketii Clan as *Uluchel*, a name given to a large area in which *Orateruul* is located. For the purposes of this appeal, we will refer to the land as *Orateruul*.

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mistakenly awarded both lots to Meketii Clan, and that *Orateruul* is the name of only one of the lots, Tochi Daicho Lot 3, or Lot 001 E 11-B. According to Ngotel, Tochi Lot 49, or Lot 007 E 11-A, is a separate parcel of land called *Irriu*, and that Ngotel was the only party that filed a claim to *Irriu*. As a result, Ngotel argues that Kawang Lineage should be awarded *Irriu* and that the Land Court erred in awarding both *Irriu* and *Orateruul* to Meketii Clan.

This Court has heard a number of appeals challenging the factual determinations of the Land Court and appellants are extraordinarily unsuccessful. See *Children of Rengulbai v. Elilai Clan*, 11 ROP 129, 131 n.1 (2004). We review the Land Court's findings of fact for clear error. *Ibelau Clan v. Ngiraked*, 13 ROP 3, 4 (2005). Under this standard, the factual determinations of the lower court will be set aside only if they lack evidentiary support in the record such that no reasonable trier of fact could have reached the same conclusion. *Palau Pub. Lands Auth. v. Ngiratrang*, 13 ROP 90, 93 (2006). "It 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).

The Land Court found that *Orateruul* includes both Tochi Daicho Lots 3 and 49. The worksheet map created by the Bureau of Land and Surveys depicts *Orateruul* and identifies it as Lot 001 E 11-A and Lot 001 E 11-B. Etibek Sadang testified that he was familiar with the boundaries of *Orateruul* and specifically identified the land as Lots 001 E 11-A and 001 E 11-B. The only evidence Ngotel presented to support his argument was his own testimony, which the Land Court found to be generalized, uncorroborated, and unbelievable.<sup>3</sup> "[I]t is not the duty of the appellate court to test the credibility of the witnesses, but rather to defer to a lower court's credibility determination." *Sungino v. Blaluk*, 13 ROP 134, 137 (2006). Without any credible evidence to support his argument, Ngotel cannot prove that the Land Court's findings of fact were clearly erroneous. Accordingly, the Land Court's determination is affirmed.

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Ngotel argues that in Wasisang's claims for *Orateruul* to the Trust Territory and Land Claims Office, Wasisang only claimed that *Orateruul* was one parcel of land. Wasisang's claims did not list a number of parcels nor did he list the Tochi Daicho numbers, he merely claimed the land known as *Orateruul*. The claims made by Wasisang provide no basis to support Ngotel's argument.