

Ruluked v. Delbirt, 14 ROP 179 (2007)
DIRRULANG RULUKED,
Appellant,

v.

NGIRAITERONG DELBIRT and FRANK D. RULUKED,
Appellees.

CIVIL APPEAL NO. 07-011
LC/K 06-108

Supreme Court, Appellate Division
Republic of Palau

Decided: September 26, 2007¹

Counsel for Appellant: Pro Se

Counsel for Appellees: Pro Se

BEFORE: KATHLEEN M. SALII, Associate Justice; LOURDES F. MATERNE, Associate Justice; ROSE MARY SKEBONG, Associate Justice Pro Tem.

Appeal from the Land Court, the Honorable SALVADOR INGEREKLII, Associate Judge, presiding.

SALII, Justice:

Appellant Dirrulang Ruluked challenges the Land Court's determination awarding to Appellees Ngiraiterong Delbirt and Frank Ruluked ownership of the land known as *Ngertoluk*. Having considered the arguments of the parties, we affirm the determination of the Land Court.

The land in dispute, commonly known as *Ngertoluk*, is Tochi Daicho Lot No. 839, Lot No. 05K002-014 as shown on BLS Worksheet No. 2005 K 002, located in Ngermetengel Hamlet of Ngeremlengui State. Ruluked Tiull is listed in the Tochi Daicho as the owner of Lot 839. On July 23, 1971, Ruluked conveyed his ownership in *Ngertoluk* to his adopted son Delbirt Ruluked. On August 26, 1983, Delbirt died and during his funeral and eldecheduch *Ngertoluk* was not specifically discussed. The Land Court found that the inheritance statute did not apply and that under Palauan custom Delbirt's children received the property because they were given control of all of Delbirt's properties at the eldecheduch.

Delbirt's sister Dirrulang appeals claiming that according to Palauan customs, the

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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).

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relatives of the deceased, in this case herself, decide and dispose of the ownership of the properties. Dirrulang cites to other cases in which she was awarded ownership of **L180** land because it was determined that under Palauan custom the relatives should determine the owner of the property. *See Delbirt v. Ruluked*, 13 ROP 10 (2005); *Delbirt v. Ruluked*, 10 ROP 41 (2003). However, the existence and substance of custom is a question of fact, “which requires that the outcome of a case be decided on the basis of its own record and allows the possibility that the conclusions reached in one case may vary from, or even be inconsistent with, the conclusions in another.” *Arbedul v. Emaudiong*, 7 ROP Intrm. 108, 110 (1998). The existence of a claimed customary law is a question of fact that must be established in each case by clear and convincing evidence and is reviewed for clear error. *See Masters v. Adelbai*, 13 ROP 139, 141 (2006).

The Land Court found that while there was no specific mention of *Ngertoluk* at the *eldechoduch*, it was stated that all of Delbirt’s properties would be taken care of by two of Delbirt’s children: Akemi Delbirt Ruluked and Samuel Delbirt. Dirrulang did not object to the statement at the *eldechoduch*. Dirrulang also did not present any customary evidence supporting her claimed customary law that the relatives should determine the owner of the property. Without any evidence to support her claim, Dirrulang cannot prove that the Land Court’s findings of fact were clearly erroneous. Accordingly, the Land Court’s determination is affirmed.