

Uchelkumer Clan v. Soweï Clan, 15 ROP 11 (2008)
UCHELKUMER CLAN, Appellant,

v.

SOWEI CLAN,
Appellee.

CIVIL APPEAL NO. 07-010
LC/R 05-221 A to 05-310A

Supreme Court, Appellate Division
Republic of Palau

Decided: January 7, 2008¹

Counsel for Appellant: Raynold B. Oilouch

Counsel for Appellee: Roman Bedor, Ernestine Rengiil

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LOURDES F. MATERNE, Associate Justice; C. QUAY POLLOI, Associate Justice Pro Tem.

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

MATERNE, Justice:

Appellant, Uchelkumer Clan, appeals a Determination of Ownership and accompanying decision of the Land Court issued on June 28, 2007, concerning 55 lots located in Teliu Hamlet, Peleliu State. The lots are located within Homestead Lot No. 167, an area commonly known as *Ngermidol*.

On October 10, 2006, the Land Court heard claims to small parcels of land within the larger tract. Appellee Soweï Clan claimed the entire area as its homestead from the Trust Territory Government. Appellant Uchelkumer Clan claimed Homestead Lot 167 as original owner of the land. In the alternative, Appellant based its claim to Homestead Lot 167 on a document called “Telbilel A Kebliil Ra Soweï.” Appellant claimed that through the document, Appellee Soweï Clan gave the land to the Uchelkumer Clan.

¶12 Following a hearing, the Land Court awarded the entire tract, save for a few lots claimed by Lawrence Ketebengang, to Appellee Soweï Clan. Appellant now challenges the Land Court's decision, specifically as regards the “Telbilel A Kebliil Ra Soweï.” Appellant asks this Court to find that the document was a valid conveyance of the land, or in the alternative, that the document was a binding contract. Because the document is too vague to be either a binding contract or a valid conveyance of land, we affirm the decision of the Land Court.

BACKGROUND

¹Upon reviewing the briefs and the record, the panel finds this case appropriate for submission without oral argument pursuant to ROP R. App. P. 34(a).

Uchelkumer Clan v. Soweï Clan, 15 ROP 11 (2008)

On January 29, 1962, the Trust Territory Government conveyed, through a quitclaim deed, Homestead Lot 167 to Appellee. Homestead Lot 167 occupies a large area of land commonly known as *Ngermidol*, located in Teliu Hamlet, Peleliu State. On the same date, the Trust Territory Government conveyed through a quitclaim deed Homestead Lot 166 to Sechedui Clan. Homestead Lot 166 occupies a large area of land commonly known as *Idelbong* and is adjacent to Homestead Lot 167. The two homestead lots contain numerous Tochi Daicho lots under the names of different individuals.

In 2000, Chief Renguul Donald Haruo of the Soweï Clan requested the Land Court to issue a Certificate of Title to the Clan for Homestead Lot 166. Although the disputing claimants before the Land Court generally agreed that the locations of the land known as *Ngermidol*, traditionally belonging to the Soweï Clan, and the land known as *Idelbong*, which traditionally belonged to the Sechedui Clan had been erroneously switched on the homestead map and the quitclaim deeds, there was an issue regarding the Land Court's authority to correct the deeds. The case was further complicated because there were 90 individual claims to smaller parcels of land within the homestead lots. For those reasons, the matter was referred to the Trial Division of the Palau Supreme Court on January 19, 2001.

On September 5, 2001, the Trial Division of the Supreme Court found that the Soweï Clan owns the land known as *Ngermidol*, which corresponds to Homestead Lot No. 167 and that Sechedui Clan owns the land known as *Idelbong* which corresponds to Homestead Lot 166. The court then ordered that the deeds be deemed modified to conform to their claims.

Soweï Clan, through the faction represented by Donald Haruo, moved to set aside the 2001 court order. On June 3, 2005, the Trial Division denied the motion. The Soweï Clan appealed both the 2001 order switching the deeds and the 2005 order denying the Rule 60(b)(6) motion. The Appellate Division affirmed the decision of the trial court on May 26, 2006.

On October 10, 2006, the Land Court heard claims to small parcels of land within the larger tract of land known as *Ngermidol*, Homestead Lot 167. Following the hearing, the Land Court found that Homestead Lot 167 had been quitclaimed to Appellee by the Trust Territory Government and therefore the land, save for the four lots awarded to Ketebengang, belonged to the Soweï Clan. The Court went on to rule that the document titled “Telbilel A Kebliil Ra Soweï” had no legal effect and was not a valid contract or conveyance.

The Land Court's conclusions of law regarding this document are the only findings at ¶13 issue in this appeal.

STANDARD OF REVIEW

The trial court's findings of fact are reviewed for clear error. *Ongidobel v. ROP*, 9 ROP 63, 65 (2002). 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. *Dilubech Clan v. Ngaremlengui State Pub. Lands Auth.*, 9 ROP 162, 164 (2002). Conclusions of law, including the court's interpretation of a contract, are reviewed *de novo*. *Palau Marine Indus. Corp. v. Pac. Call Inv., Ltd.*, 9 ROP 67, 71 (2002).

DISCUSSION

The document at issue, “Telbilel A Kebliil Ra Soweï,” is dated July 8, 1977 and bears the signature of Chief Renguul Spesungel of the Soweï Clan. Two weeks prior to the signing of the document, Judge Robert Hefner declared in Civil Action No. 111-76 that Tochi Daicho Lots 2000, 2001, 2002, 2003, 2009, 2010, 2012, 2013, 2068, 2156, 2184, 2186, 2187 and 2188 were owned by the Soweï Clan with Renguul Spesungel as its title holder.

The document contains two sections. The first section consists of three numbered paragraphs that appear to recite history surrounding land control in Peleliu and the relations to the two clans. The second section contains three numbered paragraphs which, Uchelkumer Clan argues, serve to create a contract or a conveyance of the disputed lands. Those three paragraphs are quoted below.²

1. We, the senior strong members of Soweï take these lands and give them to Uchelkumer Clan to explain and determine the right properties for these two clans, and to clarify and return the mistaken lands explained in paragraph 3 above.
2. All the lands from Uchelkumer that went to Soweï and the ones with Uchelkumer at this time, and the ones to be clarified in the future by this agreement will all be under Uchelkumer and the members of Soweï and Uchelkumer will together use the lands as had been practiced before the Japanese land survey around the year 1938 to 1941.
3. This agreement does not intend to oppose or violate previous Court Judgments, instead it follows customs and the laws of Palau to straighten out what has been done wrong, and to mend the relationship between these two families and clans to their original status and relationships-so that there can be peace and unity to continue **L14** what has always been among the predecessors and the leaders of these families.

A. The document is not an enforceable contract.

The document is too vague to constitute an enforceable contract. The obligations of the parties are not defined with reasonable certainty so as to make them enforceable. *See Adelbai v. Masang*, 9 ROP 35,40 (2001). The document lacks a reasonably clear description of the performance required or the obligations of the parties.

Even if the document could be read to contain a promise of Soweï Clan to give the land to Uchelkumer Clan, there is no bargain. *See Kamiishi v. Han Pa Constr. Co.*, 4 ROP Intrm. 37, 40 (1993) (“The formation of a contract requires a bargain in which there is a manifestation of mutual assent to the exchange and consideration.”) (citing Restatement (Second) of Contracts

² The original document is written in Palauan. Counsel for Appellant submitted his own translation. The Appellate Clerk prepared a translation for the Court, and it is this version which is quoted herein.

Uchelkumer Clan v. Soweï Clan, 15 ROP 11 (2008)

§ 17 (1979). Nothing on the face of this document suggests an intention on the part of Uchelkumer Clan to be bound -- even assuming that such an intention is manifest on the part of Soweï Clan. There is not even a signature on behalf of Uchelkumer Clan. This alone does not invalidate the document, but the presence of a signature would lend support to a finding of an intent to be bound.

A manifestation of mutual assent requires that “each party either make a promise or begin or render performance.” *Id.* Again, even assuming the document represents a promise on the part of the Soweï Clan, there is no corresponding manifestation of assent by Uchelkumer Clan. There is no promise or performance described, and the document does not even name Uchelkumer Clan as a party to the “agreement.”³

The Land Court did not err in finding that this document is not a binding contract.

B. The document is not a valid conveyance of land.

The document is likewise too vague to support a finding that it conveyed title to Uchelkumer Clan. There is no clear expression of Soweï Clan’s intention to pass title. To effectively convey title to land, a grantor must sufficiently declare his intention to pass title. *Ngerungor Clan v. Mochouang Clan*, 8 ROP Intrm. 94, 95 (1999). This document contains no reference anywhere of land being *conveyed* or title passing.

In addition to the absence of a clear declaration, paragraph three undermines any possible inference of this intent. It clearly states that the document is not intended to oppose or violate previous Court judgments, like the judgment two weeks prior awarding the land to Soweï Clan. Rather, the paragraph goes on to say, the intention is to mend relationships between the two clans. Absent a clear intent to divest Soweï Clan of title, this document cannot be a valid conveyance.

Furthermore, the subject matter is not even clear. To be a valid conveyance, the land at issue must be described with sufficient definiteness to locate and distinguish it from other **L15** lands. *Salii v. Omrekongel Clan*, 3 ROP Intrm. 212, 214 (1992). Here the document refers to “[a]ll the lands from Uchelkumer that went to Soweï and the ones with Uchelkumer at this time, and the ones to be clarified in the future by this agreement will all be under Uchelkumer.” The purported “conveyance” does not reference lot numbers or locations.⁴

Without a clearly stated intent to pass title, and absent a definite description of the lands involved, this document cannot serve as a valid conveyance. The Land Court did not err in so

³ The document claims to be an “agreement between . . . Spesungel Renguul and the senior strong members of Soweï Clan.”

⁴ The first section of the document, in the recitals, does list Tochi Daicho Lot Nos. 2000, 2001, 2002, 2003, 2009, 2010, 2011, 2012, 2013 as having been mistakenly given to Soweï Clan. However, it is not clear whether the second section of the document intends to convey those lots only or whether there are other lots and tracts of lands involved. The purported conveyance contains no reference to Homestead Lot No. 167 or any other identifier.

Uchelkumer Clan v. Soweï Clan, 15 ROP 11 (2008)

finding.

CONCLUSION

The document at issue has no legal effect as either a binding contract or a conveyance of title, and therefore, we affirm the decision of the Land Court.