

Sers v. Ucherbuuch, 1 ROP Intrm. 595 (1989)
NATSKO SERS, et al.,
Appellants,

v.

KMEDERANG UCHERBUUCH,
Appellees.

CIVIL APPEAL NO. 15-86
Civil Action No. 17-86

Supreme Court, Appellate Division
Republic of Palau

Appellate decision
Decided: April 13, 1989

Counsel for Appellants: Mariano W. Carlos

Counsel for Appellees: John K. Rechucher

BEFORE: MAMORU NAKAMURA, Chief Justice; ARTHUR NGIRAKLSONG, Associate Justice; FREDERICK J. O'BRIEN, Associate Justice Pro Tem.

PER CURIAM:

The Court below granted Defendants/Appellees' motion to dismiss on the basis that *Sers v. Ngiratemarikel*, Civil Action No. 45-80, was *res judicata* as to the parties and issues in the instant case.

To apply the doctrine of *res judicata*, a court must find, inter alia, that the issue before it has been determined in a prior case between the same parties.

The case at bar involves one Plaintiff who was a party to the previous litigation, but the issues are different. The issue in Civil L596 Action No. 45-80 was Natsko Sers' alleged entitlement to her shares of the Ngerbuuch Clan's annual income from the Angaur Mining Trust for the years up to and including 1980. The issue in the instant case is the alleged entitlement of Natsko Sers and five other Plaintiffs to their shares of the Ngerbuuch Clan's annual income from the Angaur Mining Trust for the years 1984, 1985, and 1986.

We hold that the issues in Civil Action No. 45-80 and Civil Action No. 17-86 are different. Therefore, the doctrine of *res judicata* does not apply, and the motion to dismiss should not have been granted.

Accordingly, we reverse the decision below and remand the case to the Trial Division for

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trial on the merits.