

KUKUMAI RUDIMCH,
Appellant,

v.

RAYMOND REBLUUD,
Appellee.

CIVIL APPEAL NO. 13-003
LC/N 02-155A

Supreme Court, Appellate Division
Republic of Palau

Decided: April 30, 2014

[1] **Appeal and Error:** Preserving Issues

Arguments raised for the first time on appeal will not be considered.

[2] **Appeal and Error:** Basis for Appeal

Appellate courts generally should not address legal issues that the parties have not developed through proper briefing. It is not the Court's duty to interpret broad, sweeping arguments, to conduct legal research for the parties, or to scour the record for any facts to which the argument might apply.

Counsel for Appellant: J. Roman Bedor
Counsel for Appellee: Ronald K. Ledgerwood

BEFORE: KATHLEEN M. SALII, Associate Justice; LOURDES F. MATERNE, Associate Justice; and R. ASHBY PATE, Associate Justice.

Appeal from the Land Court, the Honorable RONALD RDECHOR, Associate Judge, presiding.

PER CURIAM:

Appellant Kukumai Rudimch, through her daughter Eriko Singeo, appeals the Land Court's Decision awarding land identified as Lot No. 02N007-006 located in Ngerduais island, one of the rock islands of Airai state, to Appellee Raymond Rebluud. Because we find that Appellant has waived consideration of the issues presented on appeal, we **AFFIRM** the Land Court's decision.

BACKGROUND

Appellant Kukumai Rudimch, deceased, and Appellee Raymond Rebluud each claimed title to the land in question and the Land Court held a claims hearing in 2006. The recordings of that hearing were defective; so, it held a second hearing in 2012. Appellant Kukumai Rudimch had passed away by the time of the second hearing. As a result, her daughter, Eriko Singeo, represented her interests.

At the 2012 hearing, Eriko Singeo explained that her father, Indalecio Rudimch, bought the land in question in 1965 from Rebluud Ngiraibibngiil, Appellee Rebluud's father. Rebluud testified that his father never owned Lot 02N007-006, explaining that his mother, Etebai, owned the property instead. As a result, Rebluud argued that his father did not possess the legal right to sell the land to Rudimch.

After considering the testimony and the credibility of the various witnesses, the Land Court determined that Rebluud

Ngiraibibngiil never possessed the authority to sell the land in question. Further, the Land Court noted that both claimants testified that the property sold by Rebluud Ngiraibibngiil to Rudimch did not contain the lot at issue in this case. Because of this combination of factors, the Land Court awarded the property to Appellee Rebluud. Appellant Rudimch, through her daughter Eriko Singeo, filed a timely appeal.

STANDARD OF REVIEW

The Court has consistently refused to consider issues raised for the first time on appeal. *Ngiratereked v. Erbai*, 18 ROP 44 (2011). Arguments raised for the first time on appeal are deemed waived. *Id.*

ANALYSIS

Appellant Rudmich argues that the Land Court clearly erred in determining that Appellee Rebluud owns Lot No. 02N007-006 because (1) she is entitled to the land as a bona fide purchaser for value without notice of a defect in title of the seller; (2) any challenge to the sale of the land is barred by the statute of limitations; and (3) she is entitled to the land under the doctrine of adverse possession. Appellee Rebluud did not file a Response.

[1] It is well-settled that arguments raised for the first time on appeal will not be considered. *Rechucher v. Lomisang*, 13 ROP 143, 149 (2006) ("This Court has consistently refused to consider issues raised for the first time on appeal."); *see also Ngereketiit Lineage v. Ngerukebid Clan*, 7 ROP Intrm. 38, 43 (1998). Arguments not raised in the Land Court proceedings are waived on appeal. *Children of Merep v. Youlbeluu Lineage*, 12 ROP 25, 27 (2004); *see also Kotaro v.*

Ngirchechol, 11 ROP 235, 237 (2004) (“No axiom of law is better settled than that a party who raises an issue for the first time on appeal will be deemed to have forfeited that issue . . .”). The waiver rule is important, particularly in land litigation, because in order to bring stability to land titles and finality to disputes, parties to litigation are obligated to make all of their arguments, and raise all of their objections, in one proceeding. *Ngiratereked*, 18 ROP 44.

[2] Furthermore, the burden of demonstrating error on the part of a lower court is on the Appellant. *Ngetchab v. Lineage v. Klewei*, 16 ROP 219, 221 (2009) (“[I]t is the job of Appellant, not the Court, to search the record for errors.”). As noted in *Idid Clan v. Demei*, 17 ROP 221 (2010), “[i]t is not the Court’s duty to interpret . . . broad, sweeping argument, to conduct legal research for the parties, or to scour the record for any facts to which the argument might apply.” *Idid Clan v. Demei*, 17 ROP 221, 229 n.3 (2010).

In this case, the Court cannot find any reference to a statute of limitations or adverse possession argument in the record; nor has Appellant cited to any portion of the record establishing that she raised these arguments before the Land Court. In the section of her brief devoted to these issues, Appellant does cite to specific sections of the transcript. However, this scattered testimony, even when interpreted broadly and collectively, does not comprise a statute of limitations argument and does not address all the elements of adverse possession. See *Brikul v. Matsutaro*, 13 ROP 22, 25 (2005) (“To acquire title by adverse possession, the claimant must show that the possession is actual, continuous, open, visible, notorious, hostile or adverse, and under a claim of title or right for twenty years.” (citing

Arbedul v. Rengelekel a Kloulubak, 8 ROP Intrm. 97, 98 (1999)). The record is simply inadequate to establish that these issues were properly before the Land Court such that they can now be raised on appeal. As a result, they are waived.

The record is similarly ambiguous regarding Appellant’s bona fide purchaser argument. The testimony vaguely addresses some essential elements of this theory and it is arguable that at various times throughout the hearing Appellant testified that Appellant Rudimch bought Lot No. 02N007-006 in good faith, that she paid a valuable consideration for the land, and that she was without notice of any defects in the title. See *Ngiradilubch v. Nabeyama*, 3 ROP Intrm. 101 (1992). Thus, by scattershot, the basic criteria for a bona fide purchaser argument may have been presented to the Land Court throughout the entirety of Appellant’s testimony. However, we will not search the record for facts to which this recently articulated argument might apply. *Idid Clan*, 17 ROP 221. The bona fide purchaser theory was never expressed in a cohesive argument such that it could have been considered by the Land Court. Accordingly, it will not be addressed for the first time on appeal and is deemed waived. *Rechucher*, 13 ROP at 149; see also *Ngiratereked*, 18 ROP 44.

Notwithstanding the rule that this Court will not consider an issue first raised on appeal, we recognize two exceptions: (1) to prevent the denial of fundamental rights, and (2) when the general welfare of the people is at stake. *Rechucher*, 13 ROP at 149. Neither of these circumstances is present in this case. Appellant is a civil litigant, not a criminal defendant, and neither her life, her liberty, nor any fundamental right is at stake. See *Kotaro*, 11 ROP at 237. The issue of whether

Appellant could have proven an adverse possession, statute of limitations, or bona fide purchaser argument does not implicate any fundamental right, nor does it affect the general welfare of the people. Therefore, Appellant has waived these issues and we decline to address them on appeal. *See Ngiratereked*, 18 ROP at 46.

CONCLUSION

For the foregoing reasons, the Land Court's determination of ownership is **AFFIRMED**.