

*Brel v. Ngiraidong*, 3 ROP Intrm. 107 (1992)

**KODEP BREL,  
Plaintiff/Appellee,**

v.

**INGLONG NGIRAIDONG,  
Defendant/Appellant.**

CIVIL APPEAL NO. 29-90  
Civil Action No. 667-89

Supreme Court, Appellate Division  
Republic of Palau

Appellate decision  
Decided: February 20, 1992

Counsel for Appellant: J. Roman Bedor

Counsel for Appellee: William L. Ridpath

BEFORE: MAMORU NAKAMURA, Chief Justice; LOREN A. SUTTON, Associate Justice;  
ALEX R. MUNSON, Associate Justice.

PER CURIAM:

The Land Claims Hearing Office (“LCHO”) determined the land known as “Ollaol Malk” in Melekeok State (T.D. Lot No. 331, Cadastral Lot No. 016 C 20) to be the property of the children of Dirrarois, to be administered by Appellant Ngiraidong. Although the LCHO found Lot No. 331 to be the individual property of Appellee’s father, Reklai Brel, it nevertheless concluded that Reklai Brel was not a bona fide purchaser for value and, therefore, Appellee could not inherit the land pursuant to 39 PNC § 102(c) upon Reklai Brel’s death in March, 1968.

On appeal to the Trial Court, the LCHO determination was reversed and Appellee was designated owner of the land. The Trial Court ruled that the LCHO should have applied the intestate succession law that was in effect at the time Appellee’s claim **¶108** arose. Appellee claims the property through inheritance as Reklai Brel’s oldest living male child, therefore, his claim originated in 1968, when his father died intestate.

At that time, Palau District Code Section 801 controlled intestate succession. Section 801(c) provided that when a fee simple owner of property died intestate, his or her oldest living male child of sound mind, natural or adopted, would inherit the land. It did not include the requirement, added to its successor 39 PNC § 102(c), that the deceased must have acquired the land as a bona fide purchaser for value. And, as Appellee states in his brief, under Section 102 of the Trust Territory Code, customary law was on a par with statutory law only to the extent it did

*Brel v. Ngiraidong*, 3 ROP Intrm. 107 (1992)

not conflict with statutes.

We agree with the Trial Court's application of Section 801(c) to the facts of this case. Based on the LCHO findings that Lot 331 was the individual property of Reklai Brel and that Reklai Brel died intestate, we hold that the Trial Court decision was not clearly erroneous.

Appellant, in her appeal to this Court, has argued that the LCHO finding that the land was the individual property of Reklai Brel should be reexamined because of testimony refuting the presumptive correctness of the Tochi Daicho listing. This issue was not raised in Appellant's appeal to the Trial Court, therefore, it is outside the scope of our review.

The decision of the Trial Court is hereby AFFIRMED.