

Kadoi v. Ngirakesau, 3 ROP Intrm. 137 (1992)
**IN THE MATTER OF THE APPEAL FROM THE DECISION
OF THE LAND CLAIMS HEARING OFFICE**

MIYAWO KADOI,
Appellee

v.

JOHANES NGIRAKESAU,
Appellant.

CIVIL APPEAL NO. 27-90
Civil Action No. 661-89

Supreme Court, Appellate Division
Republic of Palau

Appellate opinion
Decided: May 27, 1992

Counsel for Appellant: Johnson Toribiong

Counsel for Appellee: Carlos H. Salii

BEFORE: MAMORU NAKAMURA, Chief Justice; ROBERT A. HEFNER, Associate Justice;
ALEX R. MUNSON, Associate Justice.¹

The Trial Court reversed the determination of the Land Claims Hearing Office (“LCHO”), dated October 25, 1990, that Appellee and his siblings have no right to the land known as Debar, and that Debar therefore should be transferred to Uchelkumer Lineage as clan property, to be administered by the title holder Dingilius. At the end of the LCHO Summary and Adjudication regarding Debar, the translator noted that “This Summary and Adjudication is exactly the same as that for the land known as Techobei . . . also heard on Sept. 21, 1989.”

¶138 According to the Trial Court decision, the only evidence presented to the LCHO regarding the disposition of Debar at the *eldecheduch* for Appellee’s father, Kadoi, was Appellee’s testimony that Debar was designated for him and his siblings. Because the Summary and Adjudication did not include a finding that Debar was given to the lineage or clan, the Trial Court concluded that reasonable evidence must not have been presented to support such a finding. Therefore, the Trial Court ruled that the LCHO decision awarding the property to the lineage was clearly erroneous.

The issue on appeal to this Court is whether the Trial Court had authority to reverse the

¹ This matter was heard by all three members of the panel, but this Opinion is signed by a majority of two Justices due to the death of Chief Justice Nakamura on April 25, 1992.

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LCHO determination. Appellant argues that it was reasonable for the LCHO to conclude that, pursuant to custom, Appellee had waived his right to claim Debar after accepting other assets of the estate during the *eldecheduc*. The LCHO determination was not clearly erroneous, therefore, the Trial Court should not have gone any further in its review.

We agree with the Trial Court that the Summary and Adjudication contains no evidence to support the LCHO findings regarding custom. These were not findings of fact. What is undisputed fact is that Debar and Techobei were the individual properties of Kadoi, who is deceased. There is no evidence in the record as to how Kadoi acquired the properties, and no finding was made as to whether he was a bona fide purchaser for value because this was not presented as an issue.

The Trial Court had discretion to review the LCHO findings pursuant to 14 PNC § 604(b), and in doing so apparently concluded **¶139** that the findings on which the LCHO's determination primarily was based had to be set aside because they were unreasonable and not supported by the evidence. Our review of the record shows that reasonable evidence exists to support the Trial Court's decision. It was not manifest error for the Trial Court to review the LCHO findings, therefore, the Trial Court's decision is hereby AFFIRMED.