

Elbelau v. Beouch, 3 ROP Intrm. 328 (1993)
**IN THE MATTER OF THE APPEALS FROM THE DECISIONS
OF THE LAND CLAIMS HEARING OFFICE**

**MASAMI ELBELAU,
Appellant,**

v.

**NGIRAIKELAU BEOUCH,
Appellee.**

**NGIRENGKOI NGIRAKORANGES,
Appellant,**

v.

**NGIRAIKELAU BEOUCH,
Appellee.**

CIVIL APPEAL NOS. 8-92, 9-92
Civil Action Nos. 292-91, 293-91

Supreme Court, Appellate Division
Republic of Palau

Opinion and order
Decided: October 13, 1993

Counsel for Appellants: Yukiwo P. Dengokl
Counsel for Appellee: J. Roman Bedor

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; JEFFREY L. BEATTIE, Associate Justice; and LARRY W. MILLER, Associate Justice.

MILLER, Justice:

These two appeals were originally scheduled for oral argument on November 8, 1993 at 1:30 p.m. The appellate division finds these cases appropriate for submission without oral argument pursuant to Rule 34(a) of the Rules of Appellate Procedure. It is so ordered.

These appeals involve determinations by the Land Claims Hearing Office (“LCHO”) that two parcels of land, “Idechor” and “Chum”, located in Ngeremlengui State, are owned by Mochouang Clan and should be administered by its title bearer “Renguul ra **1329** Mochouang” as trustee. All parties to these appeals agree that Mochouang Clan owns the properties. Ngirengkoi Ngirakoranges and Masami Elbelau, however, question the LCHO’s authority to

designate a trustee. The trial court affirmed the LCHO's trusteeship determination. We affirm.

BACKGROUND

Idechor: This property is listed in the Tochi Daicho as owned by Mochouang Clan with Taiil as trustee. Taiil died in 1942; since then Idechor has been looked after by Techechur. [Tr. 13] Ngirakoranges, Techechur's younger brother, filed a claim with the LCHO asking that Techechur be appointed trustee of Idechor. [Tr. 2] Ngirakelau Beouch, claiming the title "Renguul ra Mochouang," asked that Idechor become his "ongalek" property. [Tr. 18-19] The LCHO determined that Idechor should continue to be Mochouang Clan property and that "Renguul ra Mochouang" should be its trustee. Ngirakoranges appeals the trusteeship determination.

Chum: Chum, a taro patch, is also listed in the Tochi Daicho as owned by Mochouang Clan with Taiil as trustee. Dirratengadik Ibutirang, who tends the taro patch, appeared before the LCHO and claimed the land as her individual property. [Tr. 4-5] Elbelau, who, like Beouch, claims the title "Renguul ra Mochouang," asked the LCHO to designate Ibutirang as Chum's trustee. [Tr. 14-15] Beouch requested that the LCHO name "Renguul ra Mochouang" as Chum's trustee. [Tr. 21] The LCHO determined that Chum should remain Mochouang Clan property with "Renguul ra Mochouang" as trustee. Elbelau appeals the trusteeship determination.

¶330 DISCUSSION

These cases are controlled by this Court's decision in *Techubel Clan v. Eungel*, Civil Appeal No. 5-88 (August 3, 1992). The issue presented here is identical to the issue addressed in *Techubel*, to wit, whether the LCHO can designate a trustee. In *Techubel* we held that although the LCHO has no statutory authority to designate a trustee, it is permitted as a ministerial act to note the name of a trustee for informational purposes. *Id.* at 3 ("This practice or rule serves the purpose of documenting who should be contacted regarding any further proceedings concerning the land of the clan."). We concluded that the LCHO's non-binding designation of a trustee is not subject to judicial review. Thus, we upheld the dismissal of an appeal which challenged only the notation of a particular trustee by the LCHO. *Id.* at 4.

As the parties to the present appeal also challenge only the notation of a particular trustee by the LCHO, we reach the same result we did in *Techubel*. Namely, we uphold the dismissal of their appeals.¹

We take this opportunity to note explicitly what was implicit in *Techubel*: The notation of a trustee by the LCHO is not appealable for the precise reason that it is not binding on the clan or lineage determined to be the owner of the land at issue. ¶331 Thus, the question of who should

¹ Although the trial court's decision appears to affirm the LCHO's determination on its merits rather than dismissing the appeals as *Techubel* requires, the result it reached is nevertheless correct. See e.g. *Kirkpatrick v. Seneca Nat. Bank*, 515 P.2d 781 (Kansas 1973) ("[J]udgment of a trial court is to be upheld, if it is correct, even though the court may have relied upon a wrong ground or assigned an erroneous reason for its decision.").

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be the trustee of Idechor and Chum is for Mochouang Clan to decide, at least in the first instance, without judicial intervention. See *Blesam v. Tamakong*, 1 ROP Intrm. 578, 582 (1989); *Metcharang v. Sisang*, 4 T.T.R. 469, 472-73 (Tr. Div. 1969) (“Whether the plaintiff becomes the administrator as she seeks to be in this action or whether the senior strong members select someone else is a lineage and clan problem to be settled by them.”); *Ngirudelsang v. Etibek*, 6 T.T.R. 235, 238-39 (Tr. Div. 1973) (Who should be named trustee of clan property is for the clan to decide.). If customary processes do not resolve these disputes then any aggrieved party may file a complaint calling upon the Court to do so.

CONCLUSION

The trial court’s judgment, letting stand the LCHO’s designation of trustees for Idechor and Chum, is AFFIRMED.