Umedib v. Smau, 4 ROP Intrm. 257 (1994)

IN THE MATTER OF THE APPEAL OF THE DECISION OF THE LAND CLAIMS HEARING OFFICE

SOALABLAI UMEDIB,
Appellant,

v.

DIRRIBUKEL SMAU, MAYUMI SHINOZUKA, and TEBELAK OINGERANG,
Appellees.

CIVIL APPEAL NO. 13-93
Civil Action No. 14-92

Supreme Court, Appellate Division
Republic of Palau

Opinion
Decided: August 25, 1994

Counsel for Appellant: Carlos H. Salii

Counsel for Appellees: J. Roman Bedor

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice; PETER T. HOFFMAN, Associate Justice

HOFFMAN, Justice:

Soalablai Umedib appeals the trial court's determination, following a trial de novo of a Land Claims Hearing Office appeal, that appellees Dirribukel Smau, Tebelak Oingerang, and Mayumi Shinozuka own a parcel of land on Peleliu known as Tochi Daicho Lot No. 1283 individually as tenants in common. We affirm.

Lot 1283 is registered in the Tochi Daicho as the individual property of Ngiratebengel. Umedib testified that Lot 1283 was given to Mesai Lineage as ulsiungel, or payment for services rendered, and that Ngiratebengel was merely trustee for Mesai Lineage. Dirribukel, Ngiratebengel's granddaughter, testified that there is no lineage called Mesai in Peleliu. ⊥258 According to Dirribukel, Lot 1283 was Ngiratebengel's individual property and was given to Ngiratebengel's son Ngirametuker (Dirribukel's father) by Ngiratebengel's sisters. Ngirametuker, in turn, gave Lot 1283 during his lifetime to Dirribukel and her siblings.

Dirribukel testified that shortly before the Japanese land survey Ngiratebengel's sisters Obentir and Nglis summoned Ngiratebengel's son Ngirametuker and told him that they would

give him Lot 1283 if he would clear and maintain it. According to Dirribukel, Obentir and Nglis were worried that they would be fined, and perhaps even beaten, if the land was not cleared in time for the Japanese survey. Ngirametuker accepted their offer and thereafter he and his wife worked day and night to clear and prepare the land for the survey. Dirribukel testified that before Ngirametuker died he gave Lot 1283 to her and her siblings.

The trial court found Dirribukel's testimony credible and therefore accepted her version of the disposition of Lot 1283. Accordingly, the trial court awarded Lot 1283 to Dirribukel, her brother, and her daughter.

DISCUSSION

We review the trial court's findings of fact using the "clearly erroneous" standard imposed by 14 PNC § 604(b). See also ROP Civ. Pro. Rule 52(a) ("Findings of fact shall not be set aside unless clearly erroneous."). Under this standard of review, we must accept the trial court's findings of fact unless we are left with a definite and firm conviction that a mistake has been ⊥259 committed. *Sengebau v. Balang* , 1 ROP Intrm. 695, 697 (1989). It has sometimes been said by this Court that the trial court's findings will be upheld as long as they are supported by "reasonable evidence." See, e.g., *Silmai v. Rechucher*, Civil Appeal No. 34-91, Slip Op. at 3 (December 9, 1993). An examination of the line of cases relying on this term to characterize the scope of appellate review for findings of fact reveals that it was first used in the early Trust Territory High Court case of *Adelbai v. Ngirchoteot* , 3 TTR 619, 623 (App. Div. 1968). The *Adelbai* Court first cited to an earlier Trust Territory High Court opinion which held, "If a judicial mind could, on due consideration of the evidence as a whole, reasonably have reached the conclusion of the court below, the findings must be allowed to stand." See *Kenyul v. Tamangin*, 2 TTR 648, 650 (App. Div. 1964). The *Adelbai* Court then took this proper formulation of the rule and erroneously converted it into the "reasonable evidence" test, a mistake which has since been propagated in several of the opinions of the Trust Territory High Court and of this Court.

The so-called "reasonable evidence" test is imprecise and misleading. See *ROP v. Tmetuchl*, 1 ROP Intrm. 443, 470-71 (1989) (King, J., concurring and dissenting) (explaining why the "reasonable evidence" test implies "a larger role for the appellate court than is proper."). We therefore take this opportunity to correct the error found in some of our previous opinions and to overrule the portions of those opinions which rely on and apply the "reasonable evidence" test. See, e.g., *Silmai v. Ngardmau*, 1 ROP ⊥260 Intrm. 181, 183 (1984); *ROP v. Kikuo*, 1 ROP Intrm. 254, 257 (1985); *ROP v. Tmetuchl*, 1 ROP 443, 446 (1989); *In Re Estate of Kloulubak* , 1 ROP Intrm. 701, 704 (1989); *Silmai v. Rechucher, supra* . Stated properly, the rule is that if the trial court's findings of fact are supported by such relevant evidence that a reasonable trier of fact could have reached the same conclusion, they will not be set aside unless this Court is left with a definite and firm conviction that a mistake has been committed. See, e.g., *Sengebau v. Balang, supra*.

It is not the province of an appellate court to reverse the findings of the trial court simply because the same facts would have caused it to decide the case differently. We are not to decide

factual disputes nor is it our responsibility to weigh or sift the evidence; those tasks are left to the trial court.

The trial judge in this instance had the opportunity to view the demeanor of the witnesses and to judge their credibility. That judge chose to credit the testimony of some witnesses and to disbelieve others. The appellant, in effect, is now asking us to substitute our judgment of the credibility of these witnesses, based on our reading of a cold record, for that of the trial court's assessment of their veracity. This we refuse to do. Because the trial court's findings are supported by such relevant evidence that a reasonable trier of fact could have reached the same conclusion, we affirm.