

Tmol v. Ngirchoimei, 5 ROP Intrm. 264 (1996)
**KELAOLBAI TMOL, SMET OLKERIIL
and ENGAO OLKERIIL
Appellants,**

v.

**ULSIU NGIRCHOIMEI and OIMEI LEMONG,
Appellees.**

CIVIL APPEAL NO. 9-95
Civil Action No. 480-91

Supreme Court, Appellate Division
Republic of Palau

Opinion

Decided: October 9, 1996

Counsel for Appellant: Clara Kalscheur

Counsel for Appellee: David J. Kirschenheiter
Jerrlyn Uduch Sengebau

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

MILLER, Justice:

Appellants Kelaolbai Tmol, Smet Olkeriil and Engao Olkeriil, children of the late Olkeriil Kerai, filed an ejectment action against appellees Ulsiu Ngirchoimei, Olkeriil's half sister, and her husband, Oimei Lemong. Both sides agreed that they were each given parcels of land in Ngerusar Hamlet in Airai State at or about the time of Olkeriil's eldechdich. They disagreed sharply, however, about where these lands are situated and whether, as appellants contended, appellees' house is located, at least in part, on appellants' land. Following a trial of several days, the trial court entered judgment in favor of the appellees.

The sole question presented by this appeal is whether the factual findings on which the trial court's judgment is based are clearly erroneous. It bears repeating that "[i]t 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." *Umedib v. Smau*, 4 ROP Intrm. 257, 260 ¶265 (1994). Nor may we "substitute our judgment of the credibility of . . . witnesses, based on our reading of a cold record, for . . . the trial court's assessment of their veracity." *Id.* Thus, we do not consider whether appellant's marshaling of the evidence is reasonable, or whether it might have persuaded us had we sat as triers of fact. Instead, we consider only whether the trial court's findings are so unreasonable that a reasonable trier of fact could not

Tmol v. Ngirchoimei, 5 ROP Intrm. 264 (1996)

have reached the same conclusion. Because that is plainly not the case here, and because we are not left with a definite and firm conviction that a mistake has been committed, the trial court's findings must be upheld and its judgment affirmed.