

In re Delemel, 5 ROP Intrm. 58 (1995)
**IN THE MATTER OF THE ESTATE OF
NGIRATEMARIKEL DELEMEL,
Deceased.**

CIVIL APPEAL NO. 20-94
Civil Actions Nos. 160-86, 177-86, 529-88, 461-88, 979-88

Supreme Court, Appellate Division
Republic of Palau

Opinion

Decided: February 1, 1995

Counsel for Appellant: Carlos Salii

Counsel for Appellee: John Rechucher

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

159

MILLER, Justice:

This is the second time this case, which concerns the distribution of Ngiratemarikel Delemel's estate, has been before us. The sole question presented for review in the first appeal was whether the trial court erred in concluding that Mary Ann Delemel was not the adopted daughter of the decedent. We reversed the trial court's judgment and remanded the case "for further proceedings consistent with this opinion." On remand, the parties stipulated to a division of most of Delemel's estate, contesting only the distribution of two pieces of Palauan money. The trial court, with a different judge presiding, held that it was bound by the original trial court's decision regarding the distribution of the Palauan money because that decision was not based on Mary Ann Delemel's familial status and was therefore unaffected by our reversal.

Mary Ann Delemel appeals this holding, arguing that our reversal in the first appeal vacated the entire judgment and consequently afforded the parties an opportunity to retry all the issues litigated before the first judgment was entered. While there is authority for the proposition that a reversal "sets the matter at large for re-adjudication of all the issues involved in the case," see 5 Am. Jur. 2d Appeal and Error § 955 (1962), this is generally true only where "the part [of the judgment] appealed from is so interwoven and connected with the remainder, or so dependent thereon, that the appeal affects the other parts or involves a consideration of the whole, and is really an appeal from the whole." Id. at § 953. Where, on the other hand, the alleged error on appeal relates to "separable issues covered by the judgment, [the judgment] may be reversed as to those issues without reversing the judgment in its entirety." Id. When the issues addressed in a judgment are distinct and "separable", then "a reversal of the part appealed from does not affect the portions not dependent thereon." *Whalen v. Smith*, 125 P. 904, 905 (Cal. 1912).

In re Delemel, 5 ROP Intrm. 58 (1995)

In the present case, the first trial court's determination as to who was entitled to the two pieces of Palauan money was not dependent on or affected by the resolution of the question of whether Mary Ann Delemel was Delemel's adopted daughter. Mary Ann Delemel claimed the first piece of money, Debrebesechel, not through inheritance as Delemel's adopted daughter, but through an alleged inter vivos gift from Delemel. The trial court rejected this claim, finding that the money was acquired by Delemel prior to his marriage, and that upon Delemel's death it became the property of its joint owner, Takeko. Regarding the second piece of money, Ulengerewall, the court found that it was not Delemel's personal property but that Delemel held it in trust for Temarikel Lineage. The trial court awarded it to the **L60** Lineage, to be held in trust by Josepha Tellei, the Lineage's senior female.

Following entry of the first judgment, Mary Ann Delemel appealed only "that portion of Judgment and Decision entered on June 8, 1989 ruling that Mary Ann Delemel was not adopted by Delemel." See Notice of Appeal, Civil Appeal No. 8-89 (filed July 7, 1989). Our finding in her favor on that issue meant she was entitled to her legal and customary share of Delemel's estate as his heir, but our decision did not affect the portion of the first judgment distributing the two pieces of Palauan money. Those distributions were not dependent on the findings regarding Mary Ann Delemel's familial status, but on the findings that neither piece of money was a part of the estate. Since Mary Ann Delemel did not appeal those findings, they "stand as final adjudications." *Whalen*, supra.

AFFIRMED.