

*Diberdii Lineage v. Iyar*, 5 ROP Intrm. 61 (1995)

**DIBERDII LINEAGE,  
Appellant,**

v.

**OBODEI S. IYAR,  
Appellee.**

CIVIL APPEAL NO. 10-94  
Civil Action Nos. 654-89 & 656-89

Supreme Court, Appellate Division  
Republic of Palau

Opinion  
February 21, 1995

Counsel for Appellant: J. Roman Bedor

Counsel for Appellee: Kevin N. Kirk

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

PER CURIAM:

This matter is before the Court on appeal from the Trial Division's reversal of a determination issued by the Land Claims Hearing Office ("LCHO") concerning ownership of a portion of the land known as Diberdii. We affirm.

The issues have been fully briefed and neither party has requested oral argument. Although a time and date for oral argument was set, the argument was vacated at the request of counsel for appellant, to be rescheduled. After reviewing the briefs submitted by the parties and the record as a whole, we now conclude that oral argument would not materially assist the Court in resolving this appeal. Accordingly, pursuant to ROP Rule of Appellate Procedure 34(a), this case is ordered submitted on the briefs without oral argument.

Appellant contests the findings of the Trial Division which reversed the LCHO's conclusion that appellant owned land described with particularity in the LCHO's Adjudication and Determination and in the Trial Division's Order. Appellant contends that the Trial Division must accept the LCHO findings unless the findings were clearly erroneous. From this, appellant argues that the LCHO's findings were not clearly erroneous and should have been adopted by the Trial Division.

*Diberdii Lineage v. Iyar*, 5 ROP Intrm. 61 (1995)

Appellant's argument is without merit. A long line of decisions from this Court establish that the appropriate standard of review to be applied by the Trial Division to findings of fact **162** of review to be applied by the Trial Division to findings of fact [sic] by the LCHO is not the "clearly erroneous" standard applied by this Court in reviewing Trial Division findings. Indeed, this Court has explicitly held that it would be error for the Trial Division to apply the standard of review urged by appellant to LCHO findings. See, e.g., *Ngiratereked v. Joseph*, 4 ROP Intrm. 80, 83 (1993).

The Trial Division has a great deal of discretion in reviewing LCHO findings. The Trial Division may adopt in whole or in part the LCHO findings, may disregard them altogether and make its own findings based on the existing record (trial *de novo* on the record), may make its own findings based on evidence and testimony presented in a new trial (trial *de novo*), or may proceed with any combination of the above. *Remengesau v. Sato*, 4 ROP Intrm. 230, 232-33 (1994); see *Bausoch v. Tebei*, 4 ROP Intrm. 203, 207 (1994); *Arbedul v. Mokoll*, 4 ROP Intrm. 189, 191 & n.2, 196 (1994); *Silmai v. Rechucher*, 4 ROP 55, 57 (1993).

We, on the other hand, review the Trial Division's factual findings under the clearly erroneous standard. *Elbelau v. Semdiu*, 5 ROP Intrm. 19, 22 (1994); *Idechiil v. Uludong*, 5 ROP Intrm. 15, 16 (1994). There is ample evidence in the record to support those findings. The detailed Order issued by the Trial Division sets forth the specific findings and the evidence on which the Trial Division relied for such findings. Appellant disagrees with those findings and asks this Court to conduct yet another round of fact finding. Even if this Court were to agree with appellant's interpretation of the evidence, the evidence is not so compelling as to leave us with a definite and firm conviction that a mistake has been made. *Bilamang v. Oit*, 4 ROP Intrm. 23, 25 (1993). Accordingly, the findings were not clearly erroneous and the Trial Division's Order is AFFIRMED.