

Ngiramos v. Dilubech Clan, 6 ROP Intrm. 264 (1997)
JAMES HAIM NGIRAMOS,
Appellant,

v.

DILUBECH CLAN, represented by
Uchelbil Lalii Elbelau and Wataru Elbelau,

1265 Appellee.

CIVIL APPEAL NO. 26-96
Civil Action Nos. 465-93 & 203-93

Supreme Court, Appellate Division
Republic of Palau

Decided: November 26, 1997

Counsel for Appellant: Johnson Toribiong

Counsel for Appellee: Carlos H. Salii

BEFORE: JEFFREY L. BEATTIE, Associate Justice; LARRY W. MILLER, Associate Justice;
and R. BARRIE MICHELSEN, Associate Justice.

MILLER, Justice:

This appeal involves a dispute over whose family includes the stronger members of Dilubech Clan.¹ The trial court ruled in favor of those members of Dilubech Clan who are descended from Mesial, holding that they are stronger within the Clan than the members descended from Ucheliei. James Haim Ngiramos, who falls in the latter group, appealed. We affirm the trial court's ruling.

The trial court noted that “[t]here is no dispute that the descendants of Mesial are ulechell members of Dilubech Clan nor is there any dispute about the composition of this family or its membership in Dilubech Clan. Instead, the contest has reduced itself to identifying who is the mother of Ucheliei and whether that woman was a member of Dilubech Clan.” Trial Court Decision at 2. Ngiramos contended that Ucheliei's mother was an ochell member of the Clan. Appellee argued, in contrast, that Ucheliei's mother was not a member of the Clan at all, and that her descendants are terruaol members of the Clan.²

¹ The pleadings in this case indicate that the trial court originally was asked to decide the competency of the current holder of the title Ngiradilubech for Dilubech Clan and who, if anyone, should be appointed as conservator and morolel, or acting chief, for him. At the pretrial conference, the parties stipulated that the only issue to resolve is which family is stronger. Dilubech Clan is located in Ngermetengel Hamlet, Ngeremlengui State.

² "Terruaol", derived from the word "ruaol" meaning "to be collected or gathered", refers

The trial court reached the following conclusion:

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Both sides presented family trees as well as substantial quantities of evidence concerning Ucheliei's parentage. There is little to be gained from reviewing this evidence other than to note that much of it was in conflict. Suffice it to say that the court ultimately was persuaded by the testimony of Imeong Etibek, a gentleman in his 90s. Because of his age and the absence of any apparent interest in the outcome of the litigation, the court believes his testimony to be the more accurate and reliable. Mr. Etibek verified that the descendants of Mesial are stronger members of Dilubech Clan than the descendants of Ucheliei.

Id. at 3.

Ngiramos's principal objection to the trial court's decision is that the court below did not weigh the evidence in order to reach an independent finding of fact regarding the identity of his great-grandmother. We disagree. We do not read the trial court's opinion as indicating that the court did not conduct an independent review of the evidence. Rather, we understand it merely to say that the court saw no need to restate all of the evidence presented in its written decision.

Nor, given the clear conflict in the evidence, are we able to conclude that the finding the court did make is clearly erroneous. "Where there are two permissible views of the evidence, the fact finder's choice between them cannot be clearly erroneous." *Riumd v. Tanaka*, 1 ROP Intrm. 597, 602 (1989) (quoting *Anderson v. City of Bessemer*, 460 U.S. 1054, 105 S.Ct. 1504, 84 L.Ed. 2d 518 (1985)).

Finally, we see no error in the trial court's reliance on the testimony of Imeong Etibek. There is no indication that his testimony was based on any interest he had in the dispute. Indeed, the fact that Etibek was called as a witness for appellant undermines his contention that Etibek was biased in favor of appellee. Nor do we agree with his suggestion that Etibek's testimony that appellee's family was stronger was based solely on the fact that more of the appellee's relatives have borne titles within the Clan. Read in context, we understand Etibek to have said, consistent with appellee, that appellant and his family are from a "different" -- and weaker -- lineage within Dilubech Clan, and to have referred to past title holders as confirmation of that fact.

to unrelated persons who have been brought into a clan by one of its members. The parties stipulated that "ochell members of the clan are stronger than ulechell members who, in turn, are stronger than terruaol members." *Id.* at 3 n.2.

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CONCLUSION

For the reasons set forth above, the judgment of the trial **1267** court is AFFIRMED.