

Haruo v. Thomas, 6 ROP Intrm. 48 (1997)
CHIEF RENGUUL DONALD HARUO,
for himself and for and on behalf of the members of Soweï Clan in Peleliu,
Appellants,

v.

ORRENGES THOMAS, et al.,
Appellees

CIVIL APPEAL NO. 11-96
Civil Action No. 101-95

Supreme Court, Appellate Division
Republic of Palau

Opinion

Decided: January 17, 1997

Counsel for Appellants: John K. Rechucher

Counsel for Appellees: Carlos H. Salii

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; JEFFREY L. BEATTIE, Associate Justice; R. BARRIE MICHELSEN, Associate Justice

BEATTIE, Justice:

Appellant Renguul Haruo, Chief of the Soweï Clan of Peleliu, appeals the Trial Court's finding below that the final payments made out of the Angaur Mining Trust Fund to Soweï Clan of Angaur need not be shared with Soweï Clan of Peleliu. Appellee Renguul Thomas is the chief of the Soweï Clan of Angaur.

Under the terms of the Angaur Mining Trust Agreement of 1950, as amended in 1970, the “clans of the Island of Angaur” were entitled to receive payments from the trust fund established by the Mining Trust Agreement. *See In re Angaur Trust Fund*, 5 TTR 69 (Tr. Div. 1970). The dispute underlying this appeal arose in connection with the distribution of the payments made to Soweï Clan. Soweï Clan of Peleliu argued that it was entitled to a portion of such payments, while Soweï Clan of Angaur argued that Soweï Clan of Peleliu is a separate clan, is not one of the “clans of the Island of Angaur,” and is not entitled to share in the payments made to Soweï Clan of Angaur. 149

In the distant past, Angaur had four villages, one of which was Ngebeyanged. “Over a hundred years ago the clans of Ngebeyanged . . . lost all their rights to lands on Angaur as a result of a war in which the clans of Ngebeyanged were defeated and driven from the island.” *Lalou v. Aliang*, 1 TTR 94, 96 (1954). The members of the Soweï Clan of Ngebeyanged, the

Haruo v. Thomas, 6 ROP Intrm. 48 (1997)

highest clan of Ngebeyanged at the time of the war, fled to Peleliu, taking with them and using there the titles -- Renguul for the male title holder, Rukebai for the female title holder -- they had used in Angaur. Thereafter, some Soweï Clan members were allowed to move back to Angaur, and the Soweï Clan was reestablished in Angaur. These Angaur settlers selected people to hold the titles Renguul and Rukebai in Angaur, and those titles became recognized and used once again in Angaur. Since then, with few exceptions (according to Renguul Haruo and Soweï Clan of Peleliu) or with no exceptions (according to Renguul Thomas and Soweï Clan of Angaur), separate individuals have held the titles Renguul and Rukebai in Peleliu and in Angaur.

The Trial Court noted that the central issue was whether, as of the creation of the Angaur Trust Fund Agreement on July 16, 1950, *see Angaur Trust Fund*, 5 TTR 69, 70 (1970), and until the date of the filing of the decision below, (i) there was one Soweï Clan whose membership included members of Soweï Clan of Angaur and members of Soweï Clan of Peleliu, or (ii) Soweï Clan had evolved into two separate clans (*i.e.*, Soweï Clan of Angaur and Soweï Clan of Peleliu). The Trial Court concluded in accordance with the latter and held that Soweï Clan of Angaur need not share the payments received in connection with the Angaur Mining Trust Agreement with Soweï Clan of Peleliu. Renguul Haruo, representing the Soweï Clan of Peleliu, appeals from this decision.

DISCUSSION

It is well established that we will not set aside the Trial Court's findings of fact unless they are clearly erroneous. That is, "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." *Umedib v. Smau*, 4 ROP Intrm. 257, 260 (1994). Accordingly, under this standard we examine the finding of the Trial Court that Soweï Clan evolved into two separate clans.

150 In making its finding that Soweï had been split into two separate clans, the trial Court relied primarily on the fact that Soweï Clan of Angaur and Soweï Clan of Peleliu have separate male and female titleholders, observing that "[i]n the absence of customary evidence to the contrary . . . the existence of dual and different leadership is an indication that Soweï Clan in Peleliu and Soweï Clan in Angaur are, in reality, two different clans." The record makes clear that each Soweï Clan is recognized in its own state. Renguul Haruo is recognized as the paramount chief of his hamlet in Peleliu and serves as a member of the Peleliu State Legislature by reason of his chiefly title. *See* Peleliu Constitution, Art. VIII, Sec. 1. Similarly, Renguul Thomas is recognized as a chief in Angaur and has a seat in the Angaur Legislature by reason of his chiefly title. *See* Angaur Constitution, Art. VIII, Sec. 2.

In view of the foregoing evidence, the finding that there are two separate Soweï Clans is not clearly erroneous. Therefore, we see no error in the Trial Court's holding that appellant Soweï Clan of Peleliu is not a "clan of the island of Angaur" as that phrase is used in the Angaur Mining Trust Agreement and that they consequently have no right to share in the distributions under that Agreement.

Haruo v. Thomas, 6 ROP Intrm. 48 (1997)

CONCLUSION

For the foregoing reasons, the decision of the Trial Court is AFFIRMED.