

Ngiratechekii v. Klai Clan, 7 ROP Intrm. 152 (1999)
**AKIWO NGIRATECHEKII and
KESIMONG & TKEBUI LINEAGE,
Appellants,**

v.

**KLAI CLAN,
Appellee.**

CIVIL APPEAL NO. 35-97
D.O. No. 07-102

Supreme Court, Appellate Division
Republic of Palau

Argued: January 14, 1999
Decided: February 10, 1999

Counsel for Appellant Ngiratechekii: Raynold B. Oilouch
Counsel for Appellant Kesimong & Tkebui Lineage: Pro Se
Counsel for Appellee: Ernestine K. Rengiil

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

PER CURIAM:

This appeal concerns a dispute over the ownership of a taro patch known as “Ngereblitang” which is located in Ngerusar Hamlet in Airai State.¹ Nearly sixteen years ago, in 1983, the Airai State Land Registration Team (“ASLRT”) held a hearing concerning the ownership of this land. Four years later, **L153** the ASLRT issued its Adjudication, finding that the land belonged to Klai Clan. Although the Adjudication contained findings of fact, it was not a final decision. Under the statute in effect at the time, after the land registration team issued its Adjudication, the Land Commission would review the record and either conduct further hearings, return the record to the land registration team for further hearings, or make a determination of ownership based on the record. 35 PNC § 926 (repealed). In this case, however, the Land Commission never acted on the ASLRT’s Adjudication, nor was a Determination of Ownership issued by the Land Commission’s successor, the LCHO. In 1997, the Land Court reviewed the record, decided not to hold a new hearing, and issued a Determination of Ownership based on the record of the hearing and the Adjudication made by the ASLRT hearing officers.

Pursuant to the Land Court regulations, the Land Court is specifically instructed to decide whether to conduct a de novo hearing based on the completeness of the record. Land Court

¹ The land has been designated as Cadastral Lot BL-554-B.

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Regulation No. 25 that provides that

[a]ll cases and matters pending before the Land Claims Hearing Office as of March 5, 1996, shall be transferred to the Land Court for further proceedings. Hearings on these pending cases and matters may be de novo, or on the record where a hearing was concluded, depending on the completeness of the files and at the discretion of the Senior Land Court Judge or his designee.

The record in this case consists of the claimants' Applications for Registration of Land Parcels, typed forms containing the claimants' testimony before the Land Registration Team, and the ASLRT's Summary and Adjudication. The court reporter at the hearing both tape-recorded the hearing and simultaneously typed the testimony. The record is deficient because the tape-recording of the hearing is missing and substantial questions have been raised concerning the accuracy of the typed transcription. The Land Court therefore must conduct a de novo hearing.

Accordingly, this matter is REMANDED back to the Land Court with instructions to conduct a de novo hearing. Because Judge Keptot was on the Airai State Land Registration Team that held the original hearing of this matter, we direct that the new hearing be held before a different judge.