

Blaluk v. Markub, 7 ROP Intrm. 199 (1999)
NGIRAROIS BLALUK,
Appellant,

v.

MELELM MARKUB,
Appellee.

CIVIL APPEAL NO. 98-08
D.O. No. LC/E-03-97

Supreme Court, Appellate Division
Republic of Palau

Decided: May 11, 1999

Counsel for Appellant: J. Roman Bedor, T.C.

Counsel for Appellee: John K. Rechucher

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

PER CURIAM:

This appeal concerns Tochi Daicho Lots 532, 512, and 514, located in Ngaraard State. Appellee Markub was awarded the lots by the Land Court based on the fact that his father was listed in the Tochi Daicho as the owner of the lands in his individual capacity. Appellant Blaluk is the current titleholder of the Rois Clan, and contends that Markub's father, the former titleholder of Rois Clan, actually held the lands on behalf of the clan, not in his individual capacity, and that the Tochi Daicho is in error on this point. The sole issue before the Court is whether the Land Court erred in giving effect to the Tochi Daicho listing. Because the facts and legal arguments are clear from the parties' briefs, we are able to decide this case without oral argument pursuant to ROP R. App. Pro. 34(a).

I

This Court has long held that, other than in Peleliu and Angaur, the Tochi Daicho is entitled to a presumption of accuracy, *Silmai v. Sadang*, 5 ROP Intrm. 222 (1996) and that a party challenging the correctness of a listing of land as individual property must prove the true ownership of the land by especially clear and convincing evidence. *Ngiraidong v. Ngeesechei Clan*, Civ. App. 3797 (Oct. 9, 1998) (slip op.); *Elbelau v. Semdiu*, 5 ROP Intrm. 19, 21 (1994); *Espangel v. Tirso*, 2 ROP Intrm. 315, 318 (1991). Although Blaluk argues that it was common during Japanese times for clan leaders to register clan lands in the leaders' individual names, the record does not adequately support this argument, and we see no reason to depart from our prior

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rulings on this issue, especially where we have recently held that “the Japanese knew how to indicate clan ownership in the Tochi Daicho when that was necessary.” *Ngiraidong, supra*.

II

Even if the Tochi Daicho listing was not presumed correct, and merely given normal evidentiary value, the facts adduced at the Land Court hearing still support the Land Court’s findings. Blaluk himself was a translator for the Japanese at the time of the Tochi Daicho survey in Ngaraard, and his testimony did not allege that any improprieties took place during the registration of these lands. Moreover, Blaluk testified that several senior members of the Rois Clan were present at the time Markub’s father registered the properties as an individual, and there is no evidence that any of them disputed his right to register the properties in his individual name. Thus, we find that the Land Court’s decision was not clearly erroneous, and we affirm.

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MICHELSEN, J., concurring:

I concur in Part II of this opinion and in the result.