

Ellechel v. Lomongo, 7 ROP Intrm. 222 (1999)
HILARIA ELLECHEL,
PAULINA K. REKESUK, et. al.,
Appellants,

v.

MAYUMI M. LOMONGO, SABO JONATHAN M. BULTEDA OB,
FERMIN BULTEDA OB, ANITA BULTEDA OB, ANANIAS
BULTEDA OB, EUGENIO BULTEDA OB, CHRISTINA
BULTEDA OB, MARGARET BULTEDA OB,
and MARGARITA BULTEDA OB,
Appellees.

CIVIL APPEAL NO. 31-97
D.O. Nos. 04-48, 04-49, 04-50, 04-51, 04-52

Supreme Court, Appellate Division
Republic of Palau

Argued: May 17, 1999
Decided: July 1, 1999

Counsel for Appellant Rekesuk: Salvador Remoket, Micronesia Legal Services Corp.

Counsel for Appellant Ellechel: Yukiwo P. Dengokl

Counsel for Appellee Bultedaob: Yosiharu Ueda, T.C.

Counsel for Appellee Lomonko: Oldiais Ngiraikelau

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

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BEATTIE, Justice:

This appeal concerns a dispute over the ownership of three parcels of land in Ngiwal State known as Tochi Daicho Lots 115, 485, 771, and 772, also known as Bkulatab (115), Bakesol (485), and Kmekumer (771 and 772). The Tochi Daicho lists Siakang as the owner of the properties. Siakang died intestate in 1954, before the enactment of any statutory law governing the disposition of the property of an intestate decedent, and there was no *eldecheduch* held for him. All of the claimants to the land are descendants of Siakang.

Siakang had three biological children, named Rekesuk, Ikloi, and Risong, and an adopted daughter named Teikosang. Appellant Paulina Rekesuk is a child of Rekesuk and claims the land as a descendant of an heir of Siakang. Appellant Hilaria Ellechel is the grandchild of Ikloi and

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also claims the land as a descendant of an heir of Siakang. Appellees Mayumi Lomongo, Jonathan Bultedaob, Fermin Bultedaob, Anita Bultedaob, Ananias Bultedaob, Eugenio Bultedaob, Christian Bultedaob, Margaret Bultedaob, and Margarita Bultedaob are children of Teikosang. They also claim the land as descendants of an heir of Siakang.¹

The Land Court found that all of the parties are grandchildren of Siakang and that all of his children were deceased except for Jonathan Bultedaob.² The Land Court then determined that appellees Lomongo and all of the Bultedaob claimants--in other words the children of Teikosang -- were the owners of lots 485, 771 and 772. Although the Court noted that the evidence presented at the hearing did not show which of Siakang's grandchildren had "the most power" to get his property, it did not state why it did not include Ellechel or Rekesuk as owners in its determination.³ With respect to lot 115, the Land Court determined that Jonathan Bultedaob was the sole owner. As with the other lots, the Land Court did not state the basis for its determination.

A determination of ownership must be based upon a reasoned decision containing findings of fact which clearly set forth the basis for the determination, including a description of any custom upon which the court relied in making the determination. *See Matchiau v. Telungalek ra Klai*, Civ. App. 98-02 (April 8, 1999). Here, we cannot ascertain the basis for the Land Court's determinations of ownership from the Land Court's findings of fact and conclusions of law. Consequently, we cannot adequately review the determinations of ownership which are before us. Accordingly, this case must be remanded to the Land Court for further findings of fact and conclusions of law which clearly set forth the basis for its determinations. The Land Court need not take further evidence except as required by Rule 5 **1224** of the Land Court Rules of Procedure, in the event that the Land Court takes judicial notice of a custom. Once the Land Court has issued its findings and new determinations of ownership -- which may, but need not, reach the same result as the first determinations -- any party aggrieved may file an appeal in accordance with law.

CONCLUSION

For the foregoing reasons, the determinations of ownership are VACATED and this case is REMANDED to the Land Court for further findings consistent with this opinion.

¹ Jonathan Bultedaob testified that Siakang adopted him and therefore claims the property as a child of Siakang as well as claiming through Teikosang.

² The Court assumes from these two findings that the Land Court found that Siakang adopted Jonathan, one of his grandchildren.

³ The record contains a document signed by some of Siakang's relatives 26 years after his death, in which said relatives agree to give lots 485, 771, and 772 to the children of Teikosang. The Land Court's decision does not state that this document or the action taken by said relatives was the basis for its determination. Moreover, the Court made no finding that the people who signed the deed had the authority to dispose of Siakang's property under custom or otherwise. Similarly, the Land Court found that, at Rekesuk's eldecheduch, his children were given money, but it did not articulate the legal or customary significance of that finding nor indicate that it was the basis for denying Appellant Rekesuk's claim.