Lulk Clan v. Estate of Tubeito, 7 ROP Intrm. 63 (1998)

LULK CLAN, ODILANG CLAN, TAKAKO SUMANG, OMREKONGEL CLAN and ESUROI OBICHANG,
Appellants,

v.

ESTATE OF ROSAMUNDA TUBEITO, FAUSTINO TIRSO, KUTERBIS KUTERMALEI, SUMOR ALBIS, QUADALUPE CARLOS, and MARIANO CARLOS,
Appellees.

CIVIL APPEAL NOS. 6-97 & 7-97
Civil Action No. 285-94

Supreme Court, Appellate Division
Republic of Palau

Decided: May 1, 1998

Counsel for Appellants Lulk Clan,
Odilang Clan and Takako Sumang: Johnson Toribiong, Esq.

Counsel for Appellant Omrekongel Clan: Yosiharu Ueda, Esq.

Counsel for Appellant Esuroi Obichang: J. Roman Bedor, Esq.

Counsel for Appellee Estate of Rosamunda Tubeito: David J. Kirschenheiter, Esq.

Counsel for Appellee Florentine Yangilmau: William L. Ridpath, Esq.

Counsel for Appellees Faustino Tirso, Kuterbis Kutermalei, Sumor Albis, Quadalupe Carlos and Manano Carlos: Mariano W. Carlos, Esq.

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY MILLER, Associate Justice; and R. BARRIE MICHELSEN, Associate Justice.

MILLER, Justice:

This matter comes before the Court on appellants' Petitions for Rehearing. In the petitions, appellants contend that the Court erred in affirming the trial court's decision to uphold the LCHO's award of the lots in question to appellees. Appellants present essentially two arguments. First, on the basis of materials relating to the Japanese investigation concerning the disputed lands, appellants argue that the Court erred in concluding that these lands were owned by appellees' predecessors. Second, they argue that the Court failed to interpret correctly the 1962 Land Settlement Agreement and Indenture.

"Petitions for rehearing should be granted exceedingly sparingly, and only in those cases where this Court's original decision obviously and demonstrably contains an error of fact or law that draws into question the result of the appeal." *Espangel v. Tirso* , 3 ROP Intrm. 282, 283 (1993). We find no such error here.

The materials relating to the Japanese investigation were reviewed by the Land Claims Hearing Office, the trial court and by this Court in reaching its decision herein. As we noted in our decision, and as appellants appear to acknowledge in their reply brief, that investigation ultimately was resolved in favor of appellees and their ancestors. As such, it provides no basis for us to alter our view that the factual findings made by the LCHO and adopted by the trial court were not clearly erroneous.

Appellants' argument regarding the 1962 Land Settlement Agreement and ⊥64 Indenture was raised and rejected by this Court in related litigation. *See Espangel v. Tirso* , 2 ROP Intrm. 315, 321-23 (1991). That argument is not implausible, but an argument first made in a petition for rehearing, and indeed only fully developed in the reply brief submitted in support of that petition, is not a proper basis to reverse not only our own decision herein but that of a prior panel which had the occasion to give it full consideration.

The petitions for rehearing are accordingly DENIED.