

Kerradel v. Besebes, 8 ROP Intrm. 104 (2000)
SESARIO KERRADEL,
Appellant,

v.

SARIANG BESEBES,
Appellee.

CIVIL APPEAL NO. 98-50
D.O. No. 03-244

Supreme Court, Appellate Division
Republic of Palau

Argued: December 22, 1999
Decided: January 13, 2000

Counsel for Appellant: Lourdes Materne

Counsel for Appellee: Yukiwo P. Dengokl

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

BEATTIE, Justice:

This is an appeal from the Land Court's determination of ownership of a parcel of land known as Mudkelii, described as Tochi Daicho Lot 1213, also known as cadastral lot E010-050. We affirm.

BACKGROUND

Klemellong is registered in the Tochi Daicho as the owner of the property. Klemellong had two daughters, Youlsau and Ungiil. Klemellong died in 1957. In the Land Court, appellant Kerradel claimed that Ungiil, his mother, had executed a purported "deed" in 1973 transferring the property from Klemellong to herself, and that he had **¶105** inherited it from Ungiil. In contrast, appellee Sariang Besebes claimed that Youlsau and Ungiil had transferred the land to her father, Ermang, and that she had inherited it. The Land Court determined that Besebes was the owner of the property, and Kerradel has appealed on two grounds: 1) the transfer to Ermang was improper, and 2) he has a stronger relationship to Klemellong than does Besebes.

The Land Court found that Klemellong owned Mudkelii, he was married to Kebor, and they had two daughters, Youlsau and Ungiil. Based on the testimony of four witnesses, the Court also found that Kebor, Klemellong's wife, had lived with Ermang during her last days, and that Youlsau and Ungiil had given the lot to Ermang for taking in their mother. The Court further

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found that Subris Ermang and Sariang Besebes were Ermang's children, and determined that Besebes was the owner of Mudkelii.

DISCUSSION

This Court reviews the Land Court's findings under the clearly erroneous standard. *Tesei v. Belechal*, 7 ROP Intrm. 89, 90 (1999). Under this standard, if the Land Court's findings are supported by evidence such 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 an error has been made. *Id.* Here, we begin by noting that the Land Court's finding that Youlsau and Ungiil gave the land to Ermang is not clearly erroneous.

Notwithstanding this finding, Kerradel argues that the land could not have been validly transferred to Ermang because Klemellong was alive at the time of the transfer, and it was never established that Youlsau and Ungiil had any authority to transfer the land. We reject this argument.

There is no evidence in the record about the exact date of the transfer, or whether Klemellong was alive when Youlsau and Ungiil transferred the land to Ermang. If the transfer took place after Klemellong died, then Kerradel's argument has no merit. If, as Kerradel argues, Ungiil had authority over the land at that point, then she, or she and Youlsau, had the authority to transfer the land to Ermang.

If, on the other hand, the purported transfer took place before Klemellong died, then Kerradel's argument still fails. If, as the Land Court found, and as the record supports, Ungiil gave away her interest in the land before Klemellong died, she would be estopped from claiming ownership after his death. "[E]stoppel is a bar which precludes a person from denying or asserting anything to the contrary of that which has . . . been established as the truth . . . by his own deed, acts, or representations, either express or implied." 28 Am. Jur 2d *Estoppel and Waiver* § 1. See *Miller-Long v. John Hanson Sav. & Loan, Inc.*, 676 F. Supp. 298 (D.D.C. 1987) (savings and loan institution holding property as security for note acquired valid interest in real property when property owner died and property passed to owner's son, who had executed note to the institution); see also *Lyons v. Fisher*, 847 F.2d 1158, 1161-63 (5th Cir. 1988) (children of landowner owned a reservation for mineral servitude where landowner had conveyed land but retained the mineral servitude before landowner inherited the property from her mother; upon mother's death, title passed to landowner and landowner's prior conveyance of her future interest subject to the mineral servitude ¶106 reservation became effective). Because Ungiil would have been estopped from claiming ownership, Appellant's claim is barred as well because, as heir, he would have no more right to the property than Ungiil. This principle is also fatal to Kerradel's contention that his claim to the land is superior to Besebes' claim because he is a direct descendant of Klemellong, and Besebes is not.

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CONCLUSION

Because the Land Court's finding that Klemellong's daughters gave the land to Ermang, and thus the land belongs to Ermang's daughter Besebes, is not clearly erroneous, we hereby AFFIRM the Land Court's determination of ownership.