

*Ngetchab Lineage v. Klewei*, 8 ROP Intrm. 116 (2000)  
**NGETCHAB LINEAGE, Rep. by YUSIM BLESAM,**  
**Appellant,**

v.

**IKELAU KLEWEI,**  
**Appellee.**

CIVIL APPEAL NO. 99-08  
D.O. No. 13-061

Supreme Court, Appellate Division  
Republic of Palau

Argued: January 28, 2000  
Decided: February 3, 2000

Counsel for Appellant: Kathleen M. Salii

Counsel for Appellee: Yosiharu Ueda

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

PER CURIAM:

Appellant Ngetchab Lineage appeals from a Land Court Adjudication awarding Tochi Daicho Lot No. 1267 to Appellee Ikelau Klewei. Klewei is the only surviving child of Iyekar, who is listed in the Peleliu Tochi Daicho as the owner of Lot No. 1267.

At the Land Court hearing, two strong members of Ngetchab Lineage testified that the lot did not belong to Iyekar personally, but rather was the Lineage's *omsolel a blai*, or principal house site. These witnesses testified that although they were not present when the Tochi Daicho listing was recorded, the Lineage's *ourrot* told them that Iyekar, who ¶117 held the Lineage's second-ranking title and assumed its highest title *Obaklechol* shortly before he died, was listed as the owner on the understanding that he would serve as trustee for the Lineage and would not pass the lot on to his children. They further testified that the lot is known as "Ngetchab," reflecting its importance to Ngetchab Lineage.

Appellee Klewei and several other witnesses testified, on the other hand, that Iyekar had owned the lot individually, and Klewei testified that Iyekar had given it to her in 1974. According to these witnesses, Lot No. 1267 is known as "Ngeremdiu," contains only plants and trees, whereas the real "Ngetchab" is located nearby and contains a cemetery consisting of six or seven graves.

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In awarding the land to Klewei, the court found that the Tochi Daicho listing was the “best evidence offered to establish ownership,” because the Lineage’s witnesses had offered “no evidence” to corroborate their contentions that the land was owned by the Lineage. The court stated that it was thus “more persuaded to believe the assertion of individual ownership . . . which is supported by the Tochi Daicho listing,” and accordingly awarded the land to Klewei.

We review the Land Court’s factual findings under a clearly erroneous standard. *Tesei v. Belechal*, 7 ROP Intrm. 89, 89 (1999). Under this standard, the Land Court’s findings may not be disturbed “unless this Court is left with a definite and firm conviction that a mistake has been committed.” *Umedib v. Smau*, 4 ROP Intrm. 257, 260 (1994). Thus, “where there are two permissible views of the evidence,” the court’s “choice between them cannot be clearly erroneous.” *Ngiramos v. Dilubech Clan*, 6 ROP Intrm. 264, 266 (1997).

We find that the Land Court’s determination of ownership is well supported by evidence in the record. Several witnesses testified that Lot No. 1267 was Iyekar’s personal property known as Ngeremdiu, and was not the Lineage’s *omsolel a bai* as Appellant’s witnesses contended. These witnesses testified that the real *omsolel a bai* known as Ngetchab was elsewhere and contained a cemetery with six to seven graves, whereas Lot No. 1267 contained no such graves, only plants and trees.

Moreover, Tochi Daicho listings corroborated the testimony that Iyekar owned the lot individually. The lot was registered in the Tochi Daicho to Iyekar in his own name, as were Iyekar’s other personally held properties. Several lots that were Lineage property were, by contrast, registered to the Lineage’s titleholder *Obaklechol* as trustee for the Lineage. Based on this evidence, the Land Court could permissibly find the testimony as to Iyekar’s individual ownership more persuasive than the testimony as to Lineage ownership.<sup>1</sup>

Appellant argues that the Land Court clearly erred in rejecting its assertions of Lineage ownership while crediting Appellee’s “unsupported, self-serving hearsay statements.” However, just as Appellee’s testimony relied on Iyekar’s statements, so Appellant’s witnesses, who conceded that they had no personal knowledge of how the lot came to be registered in Iyekar’s name, relied on statements made by the Lineage’s *ourrot*. Faced with conflicting testimony, the Land Court was entitled to credit the assertions of individual ownership, which were corroborated by the Tochi Daicho listings, over the assertions of Lineage ownership which were not corroborated by any extrinsic evidence. Because both testimony and Tochi Daicho listings support a finding of Iyekar’s individual ownership, the Land Court’s findings are not clearly erroneous. 1118

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<sup>1</sup> The court did not, as Appellant argues, improperly presume the Peleliu Tochi Daicho to be correct. *See Espangel v. Tirso*, 2 ROP Intrm. 315, 319 (1991). Rather, in finding the assertions of individual ownership more persuasive because they were “supported by the Tochi Daicho listing,” the court properly weighed the Tochi Daicho listing as one piece of evidence in assessing conflicting testimony. *See Ngiradilubech v. Timulch*, 1 ROP Intrm. 625, 629 (1989) (“the Tochi Daicho provides valuable extrinsic evidence of ownership where otherwise the court would be left with only . . . conflicting testimony”).

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The Land Court's Determination of Ownership is hereby AFFIRMED.