

*Rurcherudel v. PPLA*, 8 ROP Intrm. 14 (1999)  
**KANAI E. RURCHERUDEL,**  
**Appellant,**

v.

**PALAU PUBLIC LANDS AUTHORITY, Appellee.**

CIVIL APPEAL NO. 98-28

Supreme Court, Appellate Division  
Republic of Palau

Decided: August 4, 1999<sup>1</sup>

Counsel for Appellant: Johnson Toribiong  
Counsel for Appellee: James T. Dixon, Jr.

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

PER CURIAM:

This appeal concerns a claim for public land known as *Ibibuong*, located in Elab Hamlet, Ngaraard State, which occupies a portion of Tochi Daicho Lot 483 (Cadastral Lot 21-2056). Appellee Kanai Rurcherudel (“Kanai”) claimed the land on behalf of Ngeong Lineage.

The Land Court held that, prior to Japanese seizure in 1926, *Ibibuong* was owned by Ngeong Village, not Ngeong Lineage. However, the Land Court did find that Ngeong Lineage had occupied a portion **115** of the land, as evidenced by a still-existing stone platform on the land. Thus, the Land Court awarded the land surrounding the platform to Kanai, <sup>2</sup> while denying Kanai’s claim to the remainder. Kanai now appeals.

We review decisions of the Land Court under a “clearly erroneous” standard. *Tesei v. Belechal*, 7 ROP Intrm. 89 (1998); *Masters v. Paulis*, 7 ROP Intrm. 149 (1999). Under this standard, if the Land Court’s findings are supported by such relevant evidence that a reasonable trier of fact could have reached the same conclusion, they will not be set aside unless the Court is left with a “definite and firm conviction” that a mistake has been made. *Tesei*, 7 ROP Intrm. at 90, citing *Kulas v. Becheserrak*, 7 ROP Intrm. 76, 77 (1998).

Kanai attacks the Land Court’s determination on two bases. First, he contends that the record does not support the finding that the *Ibibuong* formerly belonged to Ngeong Village, not

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<sup>1</sup> Upon reviewing the briefs and record, the panel finds this case appropriate for submission without oral argument pursuant to ROP R. App. Pro. 34(a).

<sup>2</sup> Palau Public Lands Authority (“PPLA”) does not appeal the award of a portion of *Ibibuong* to Kanai.

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Ngeong Lineage. Second, he argues that, even if the Land Court correctly found that the land belonged to Ngeong Village, title to that land should not now be awarded to PPLA, but rather to Kanai in his role as the current head of Ngeong Village or to the Ngaraard State Public Lands Authority.

There is testimony in the record that supports the Land Court's findings that *Ibibuong* belonged to Ngeong Village, not Ngeong Lineage. Ngirarois Idip, Kanai's own witness, testified that the land in question was originally owned by Ngeong Village. In light of this testimony, we cannot say that this finding by the Land Court was clearly erroneous.<sup>3</sup>

Kanai's other argument on appeal is that, if the land was originally owned by Ngeong Village, it should be awarded to the village, not to the PPLA. We do not believe that Kanai has standing to raise this argument, since his only claim before the Land Court was made on behalf of Ngeong Lineage. In any event, we are doubtful of the proposition that village land should be treated differently from other public lands. *See, e.g., Airai Municipality v. Rebluud*, 4 TTR 75 (Tr. Div. 1968) (declaring that former village land was owned by Airai Municipality). Kanai does not contest the fact that the land in question was registered as Japanese government land in the Tochi Daicho, was thereafter acquired as public land by the Trust Territory, and duly conveyed to the PPLA by Secretarial Order 2969. Once in the custody of the PPLA, the law contemplates public land being disposed of in only two ways--by a citizen's successful claim for return of the land under 35 PNC § 1304(b), or by transfer to a duly established state public lands authority under 35 PNC § 215(a). Since Kanai's only claim under § 1304(b), filed on behalf of Ngeong Lineage, is rejected, and since the parties stipulated before the Land Court that no transfer of the land from PPLA to Ngaraard State Public **116** Lands Authority pursuant to § 215(a) had ever taken place, the land remains under the PPLA's control. The Land Court's determination is accordingly AFFIRMED.

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<sup>3</sup> While Idip also testified during the hearing that the same land was owned by Ngeong Lineage, we believe that the Land Court was in a better position than this panel to evaluate the real meaning of Idip's testimony. Where, as here, the evidence is susceptible to two permissible interpretations, the factfinder's choice between them cannot be clearly erroneous. *Ngiramos v. Dilubech Clan*, 6 ROP Intrm. 264, 266 (1997).