

Tangadik v. Bitlaol, 8 ROP Intrm. 204 (2000)
HIDEO TANGADIK,
Appellant,

v.

IDIP BITLAOL and MARCELLA BITLAOL,
Appellees.

CIVIL APPEAL NO. 98-17
D.O. Nos. 05-93, 05-95

Supreme Court, Appellate Division
Republic of Palau

Argued: April 7, 2000
Decided: May 26, 2000

Counsel for Appellant: Yukiwo P. Dengokl

Counsel for Appellees: Clara Kalscheur

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

MILLER, Justice:

This appeal arises from a proceeding under the Land Claims Reorganization Act of 1996, 35 PNC § 1301 *et seq.*, to determine the ownership of Tochi Daicho Lot Nos. 1316, 1396, 1397, 1398, 1417, and 1446 in Ngaraard State. The Land Court awarded Lot Nos. 1396, 1397, 1398, and 1417 to Idip and Marcella Bitlaol. The lots are listed in the name of Bitlaol, who died intestate in 1980. We vacate and remand for a new determination of ownership.¹

I. Background

Appellant Hideo Tangadik was represented by Ngirangeboi Emaurois at the hearing on January 13, 1998. Emaurois claimed that Hideo's father, Tangadik, inherited the lots from Bitlaol, and that Hideo, in turn, inherited the lots from Tangadik. Emaurois submitted a document ("confirmation document") which, according to the Land Court, states that after the death of Bitlaol the lots were properly determined and transferred to Tangadik Bitlaol and that since Tangadik Bitlaol is now dead, the signatories transferred the same lots to Hideo.² The document was signed by Wasisang and Ileberang, and witnessed by Emaurois and other

¹ The award of ownership of Lot Nos. 1316 and 1446 to other individuals has not been appealed.

² The document is written in Palauan. Although Appellant argues that the document proves his claim, neither party provided an English translation on appeal.

individuals not identified at the hearing.

Appellees Idip and Marcella Bitlaol claimed joint ownership of Lot Nos. 1396, 1397, 1398, and 1417. They testified that Bitlaol adopted them after they were brought into Bitlaol's family through marriage, and that Bitlaol told them they would inherit the lots. Isaac Soaladaob, a witness for Idip and Marcella, testified that Ileberang, his mother, signed the confirmation document thinking Bitlaol's property was being given to Idip and Marcella. The Land Court told Isaac to submit an affidavit from Ileberang discussing her signature on the document. The Court then told Emaurois he could write a response within a week after receiving a copy of the affidavit. An affidavit of Ileberang was filed with the court on January 16, 1998. No response was filed.

1205 The Land Court awarded ownership of Lot Nos. 1396, 1397, 1398, and 1417 to Idip and Marcella.

II. Discussion

We review the Land Court's findings of facts under the clearly erroneous standard of review and will only reverse if its findings so lack evidentiary support in the record that no reasonable trier of fact could have reached the same conclusion. *Tesei v. Belechal*, 7 ROP Intrm. 89, 90 (1998). Applying this standard, we reject Hideo's challenges to the Land Court's factual findings. Specifically, we find that the record supports the Land Court's findings that Idip and Marcella were adopted by Bitlaol, that Ileberang signed the confirmation document believing that Bitlaol's property was being conveyed to Idip and Marcella,³ and that, in any event, Wasisang and Ileberang could not by themselves dispose of Bitlaol's property.

However, although we find no clear error in the Land Court's factual findings, we agree with Hideo's contention that the opinion of the Land Court does not clearly set forth the basis for its determination and therefore remand for further proceedings. The Appellate Division cannot adequately review a determination of ownership if the Land Court's decision does not adequately explain the basis for that determination. *E.g., Trael v. Beketaut*, 8 ROP Intrm. 101 (2000). Here, although the Land Court made detailed findings of fact, its opinion concludes that appellees own the lands in question without explaining how its factual findings led to that conclusion or otherwise setting forth its rationale.

³ We reject Hideo's contention that the Land Court erred in admitting evidence concerning Ileberang's signature on the confirmation document without giving him an opportunity to cross-examine her and provide rebuttal evidence. Emaurois did not object to Isaac's testimony about Ileberang's signature and agreed to the submission of Ileberang's affidavit. Moreover, Emaurois was given and failed to take advantage of an opportunity to provide a response to the affidavit. Hideo's right to object to Isaac's testimony or the affidavit was thereby waived.

At oral argument, Hideo's attorney suggested that Emaurois never received a copy of the affidavit and accordingly could not respond to it. This argument was not fairly presented in his brief, however, and the Court will not consider it here.

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Appellees argue that the Land Court concluded that the land should go to Bitlaol's children, and that while Hideo, like Idip and Marcella, was brought in through marriage, only appellees were adopted by Bitlaol. That is a plausible reading of the Land Court's opinion, but it is not inevitable since the Land Court made numerous findings which would appear to be unnecessary if that were the basis for its conclusion and which might support alternative rationales. We conclude, therefore, that a remand is appropriate.

However, the discussion does not end there. We take this opportunity to emphasize that while we have to formulate a single rule to deal with the intestate succession of real property belonging to an individual who died before the enactment of Section 801 of the Palau District Code, and whose lands were not disposed of at an *eldech duch*, see *Matchiau v. Telungalek ra Klai*, 7 ROP Intrm. 177, 179 (1999), the inheritance of land owned individually by someone who died intestate after its enactment in 1959 is governed by the 1206 version of Section 801 in effect at the time of his or her death. *Wally v. Sukrad*, 6 ROP Intrm. 38, 39 (1996). Bitlaol died intestate in 1980. Consequently, the inheritance of his property is governed by the current version of that statute, as amended in 1975, which was first codified at 39 PNC § 102 and is now found at 39 PNC § 403 and 25 PNC § 301. There is no evidence that Bitlaol acquired the lots as a bona fide purchaser for value. Consequently, section 801(d) (now § 301(b)) appears to be on point. Although interpretation of that statute can present its own difficulties, it is nevertheless the applicable law and should be applied by the Land Court on remand. We leave to the sound discretion of the Land Court whether to rely on the existing record or to allow the introduction of additional evidence in making its new determination of ownership.

III. Conclusion

For all of the reasons set forth above, the determination of ownership is vacated and this matter is remanded to the Land Court for further proceedings consistent with this opinion.