

*Arbedul v. Romei Lineage*, 8 ROP Intrm. 30 (1999)  
**GABRIEL ARBEDUL and MARIA BEKETAUT,**  
**Appellants,**

v.

**ROMEI LINEAGE,**  
**Appellee.**

CIVIL APPEAL NO. 98-40  
D.O. Nos. 03-181, 03-182, 03-183, 03-186

Supreme Court, Appellate Division  
Republic of Palau

Decided: September 1, 1999<sup>1</sup>

Counsel for Appellants: Yukiwo P. Dengokl

Counsel for Appellee: Johnson Toribiong

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

BEATTIE, Justice:

This appeal concerns a dispute over the ownership of land in Ngaraard State known as “Omisang,” “Bekersiu,” and “Romei.”<sup>2</sup> The Tochi Daicho lists Arbedul as the owner of the property. Arbedul died intestate in 1969.

The Land Court awarded the property to Appellee Romei Lineage finding that the Tochi Daicho listing was incorrect and that although the land was listed under Arbedul’s individual name, the land actually belonged to the Romei Lineage. Appellants Maria Beketaut and Gabriel Arbedul claim the land as the children of Arbedul and argue that there is insufficient evidence to rebut the presumption of the accuracy of the Tochi Daicho listing.

The first question for this appeal is the standard of review that this Court should employ when reviewing a finding that the Tochi Daicho listing of the owner of land is inaccurate. The Tochi Daicho listing of property owners is presumed to be accurate,<sup>3</sup> and the party who disputes

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<sup>1</sup> Because the panel has determined that oral argument would not materially assist the Court in resolving this appeal, we are considering this appeal on the briefs. ROP R. App. Pro. 34(a).

<sup>2</sup> The land is designated as Tochi Daicho lot nos. 829, 830, and 833 and Cadastral Lots E-231, E-220, and E-216.

<sup>3</sup> For exceptions to the presumption, see *Silmai v. Sadang*, 5 ROP Intrm. 222, 223 n. 2 (1996).

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the listing must rebut the presumption by clear and convincing evidence in order to prevail. *Silmai v. Sadang*, 5 ROP Intrm. 222, 223 (1996). However, we review the trial court's finding that the Tochi Daicho listing is inaccurate using the same standard as with any other factual finding, the clearly erroneous standard. Thus, the test for upholding the finding is whether a reasonable trier of fact could have found, by clear and convincing evidence, that the Tochi Daicho presumption had been rebutted. *Remoket v. Omrekongel Clan*, 5 ROP Intrm. 225, 227 (1996) (the existence of customary law is a question of fact that must be established by clear and convincing evidence at the trial court level and is reviewed under the clearly erroneous standard on appeal).

**¶31** Here, there is more than sufficient evidence to support the Land Court's determination that Romei Lineage proved, by clear and convincing evidence, that although Arbedul registered the land in his individual name, the land belongs to the Romei Lineage. Every witness testified in support of this finding -- even Appellants themselves. Appellant Beketaut testified as follows:

[Beketaut]: I'm claiming Lot No. 833, a land known as Omisang. The land known as Omisang is owned by Romei lineage . . . when [my father] became ill . . . he called all of us (his children) and no one else, to his side and explained that he claimed this land on behalf of Romei lineage, and he is the last surviving member of Romei lineage.

Court: Was he talking about Lot No. 833?

[Beketaut]: Yes, Omisang that is owned by Romei lineage.

Court: Did he claim to be the last member of Romei?

[Beketaut]: Yes. He said he succeeded Tokai when he passed away. He had this property on behalf of Romei lineage. When he became ill, he called of us, his children, to his side and told us that he is the last member of Romei lineage. He also explained that Romei lineage is part of Idong clan. He said, I give you, my children, this land and you look after Romei lineage's interest as children of Romei lineage and Idong clan as I have been doing. We succeeded him and have continued taking part in all of Romei's affairs to this day.

Appellant Arbedul similarly testified that all of the properties at issue belonged to Romei Lineage. Since every witness testified that the land belonged to the Lineage and no witness testified that Arbedul owned the land individually, Appellee clearly met its burden of proving that the Tochi Daicho listing was incorrect and the Land Court did not err in so ruling.

Appellants argue that when they testified that the Lineage owned the land, they meant that the Lineage owned the land prior to the Tochi Daicho survey and that when Arbedul listed the property in his own name he was either the last member of the Lineage that therefore entitled to list the property in his own name or that he did so with the consent of any remaining members of the Lineage. Appellants admit that their testimony does not clearly state this, but they argue

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that it can be inferred from their testimony and argue that the Land Court should have asked follow-up questions to clarify their testimony. However, it is not the Land Court's job to develop testimony. *See e.g., Llecholech v. Lawrence*, 8 ROP Intrm. 24, 25 (1999). Moreover, even if more than one inference could be drawn from that testimony, where there are two permissible views of the evidence, the Land Court's choice cannot be clearly erroneous. *Kotaro v. Republic of Palau*, 7 ROP Intrm. 57, 61 (1998).

Finally, Appellants take issue with several of the Land Court's findings of fact. **132** First, Appellants argue that the finding that Taro Matsuda is a member of Romei through his mother Odibong is clearly erroneous because Odibong was not Taro Matsuda's mother, she was Arbedul's mother. This finding, however, is not essential to the Land Court's holding and therefore it is immaterial whether it is clearly erroneous. Second, Appellants argue that the Land Court erred in making findings regarding the membership status of the claimants within the Lineage. This finding is also not relevant to the Land Court's final determination. The Land Court awarded the property to the Lineage, not to any particular member of the Lineage. It is for the Lineage to decide who should be the trustee. *Elbelau v. Beouch*, 3 ROP Intrm. 328, 330-31 (1993).

The Determination of Ownership awarding the land to Romei Lineage is accordingly AFFIRMED.

MICHELSSEN, Justice: I concur in the result.