

Ngirakebou v. Mechucheu, 8 ROP Intrm. 34 (1999)
ELOBET NGIRAKEBOU,
Appellant,

v.

TONY E. MECHUCHEU,
Appellee.

CIVIL APPEAL NO. 98-36
D.O. No. 02-43

Supreme Court, Appellate Division
Republic of Palau

Decided: September 3, 1999¹

Counsel for Appellant: David J. Kirschenheiter

Counsel for Appellee: No appearance

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

PER CURIAM:

This appeal from the Land Court concerns a parcel known as “Ngisuus,” Tochi Daicho Lot 1410, located in Ngerchelongs State. The parties agreed that the property was formerly owned by one Mechucheu who died in either 1964 or 1967. Appellant, Elboet Ngirakebou, claims the property as Mechucheu’s nephew,² while Appellee, Tony L35 Mechucheu, claims the property as the adopted son of Mechucheu. Although Ngirakebou disputed whether Tony was actually adopted by Mechucheu, the Land Court found that he was, and awarded him the land pursuant to Palau District Code §801(c).³

Ngirakebou testified that when Mechucheu’s wife died, their only surviving child was Ngirasiau, and that Mechucheu never mentioned Tony at the wife’s eldecheduch. Ngirakebou

¹ Upon review of the record and submissions of the parties, the panel has determined that this case is suitable for decision without oral argument pursuant to ROP R. App. Pro. 34(a).

² Technically “grand-nephew,” since Appellant testified that Mechucheu was the brother of Appellant’s grandmother.

³ At the time of Mechucheu’s death in 1967, Palau District Code § 801 provided that all of an intestate’s land descended to his oldest living male child. The current provisions applying only to bona fide purchases for value and the requirement that the property pass to a child born during the marriage during which the property was acquired were not introduced until 1975. We apply the statute as it existed at the time of Mechucheu’s death. *Wally v. Sukrad*, 6 ROP Intrm 38 (1996).

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also testified that he had never met Tony, nor had any knowledge concerning Tony's claim to be Mechucheu's adopted son. Tony testified that, although he refers to Mechucheu as his "stepfather," Mechucheu adopted him at a young age. Tony further stated that Mechucheu promised that Tony, Ngirasiau, and his other brother Takeo would inherit Ngisuu upon Mechucheu's death. Tony testified that his father died in 1967, while Tony was at school in Guam, and that he learned of his father's death only upon returning to Palau. Like Ngirakebou, Tony testified that he had no knowledge of Ngirakebou or his relationship to Mechucheu.

We review the Land Court's factual findings under a "clearly erroneous" standard. *Tesei v. Belechal*, 7 ROP Intrm. 89 (1998); *Masters v. Paulis*, 7 ROP Intrm. 148 (1999). As a consequence of this limited scope of factual review, we generally defer to the lower court's findings regarding the relative credibility of the witnesses. *Tmol v. Ngirchoimei*, 5 ROP Intrm. 264, 265 (1996). While this Court may reverse a lower court's credibility findings, *ROP v. Tmetuchl*, 2 ROP Intrm. 443 (1988), such an action is reserved for "extraordinary" cases. *Omelau v. ROP*, 3 ROP Intrm. 258, 260 (1993).

Ngirakebou's main argument on appeal is that the Land Court's finding that Tony was the adopted son of Mechucheu was clearly erroneous. Although Ngirakebou points out several aspects of Tony's testimony that he alleges casts doubt on Tony's claim, the record indicates that Tony testified he was adopted and the Land Court believed him. Since the record supports at least two possible views of the evidence—that Tony was adopted and that Tony was not adopted—the Land Court's decision cannot be said to be clearly erroneous. *Lulk Clan v. Estate of Tubeito*, 7 ROP Intrm. 17, 19 (1998).

Ngirakebou's second argument is that the Land Court's findings of fact are insufficient to allow this Court to review them. Specifically, he notes that the findings do not make reference to his testimony regarding Tony taking nothing at his mother's eldecheduch or other inconsistencies in Tony's testimony. As a result, Ngirakebou contends that there is no basis for this Court to assume that the Land Court rejected his testimony in favor of Tony's.

The argument is without merit. The fact that the Land Court did not reiterate every fact alleged at the hearing in its summary does not prevent meaningful review by this Court 136 since the hearing transcript, containing Ngirakebou's full testimony, is available to this Court as part of the record. Reviewing that record, it is clear from the findings of fact that the Land Court rejected Ngirakebou's testimony in favor of Tony's. For example, Ngirakebou contested both the fact that Tony was adopted and the fact that Mechucheu died in 1967, yet the Land Court resolved both of these credibility issues against him.

Therefore, since the Land Court's findings of fact here cannot be said to be clearly erroneous, the decision is AFFIRMED.