

Sadang v. Ngersikesol Clan, 8 ROP Intrm. 63 (1999)
INACIO SADANG and ADELISA ADALBERT,
Appellants,

v.

NGERSIKESOL CLAN,
Appellee.

CIVIL APPEAL NO. 55-97
Civil Action No. 418-95

Supreme Court, Appellate Division
Republic of Palau

Argued: October 8, 1999
Decided: November 8, 1999

Counsel for Appellant: Johnson Toribiong
Counsel for Appellee: Yukiwo P. Dengokl

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; JEFFREY L. BEATTIE, Associate Justice; R. BARRIE MICHELSEN, Associate Justice.

PER CURIAM:

This appeal from the Trial Division concerns Tochi Daicho Lot 119, also known as Bital-Mesei, located in Ngiwal State. The Tochi Daicho lists Ngersikesol Lineage¹ as the owner of the land, with Ngirabad as its trustee. After a hearing, the Land Claims Hearing Office (LCHO) awarded the land to Appellant Adelisa Adalbert (“Adelisa”), on the basis of testimony that the lineage had given it to her father, Adalbert Sadang (“Adalbert”) at the eldecheduch of his father, Sadang, in 1940.

The Trial Court held a *de novo* hearing and awarded the land to the Clan, agreeing with the position of the Clan that there was insufficient evidence that all of Ngersikesol’s senior strong members approved the transfer to Adalbert. The Trial Court found that Appellee’s father, Llecholech, was a senior strong member of the clan, and that Appellants had conceded before the LCHO that he did not attend the eldecheduch. Appellants’ witnesses had also testified that none of Llecholech’s siblings attended the eldecheduch. Thus, the Trial Court found that there was no basis to conclude that all of the Clan’s senior strong members consented to the transfer at the eldecheduch.

The Trial Court also found support in circumstantial evidence, looking at the use of the

¹ Although the Tochi Daicho lists the ownership of the land as the Ngersikesol Lineage, the Trial Division noted that all parties stated Ngersikesol was a clan. We will therefore assume, as did the Trial Division, that it is a clan.

Sadang v. Ngersikesol Clan, 8 ROP Intrm. 63 (1999)

land, in finding that there was no basis to conclude that all of the senior strong members acquiesced in the transfer. The uncontested evidence showed that for many years after the eldecheduch, Ngirabad, then the Clan's chief title holder, permitted a relative outside the Clan, Renguul Ngirabairang, to farm the land. There was no evidence that Adalbert ever used or claimed ownership of the land. The Trial Court found that this evidence supported its finding that the land remained the Clan's property, and did not support a conclusion that the land had been transferred to Sadang.

Appellants now argue that the Trial Court's finding that Llecholech was a senior strong member of the Clan was clearly erroneous. Appellants also argue that by not attending the eldecheduch, Llecholech waived 164 his right to object to the transfer. We find that these arguments are without merit.

We review the trial court's factual findings under the clearly erroneous standard. *Ngermelkii Clan v. Remed*, 5 ROP Intrm. 139, 142 (1995). Under this standard, "if the trial court's findings of fact are supported by such relevant evidence that a reasonable trier of fact could have reached the same conclusion, they will 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).

The Trial Court noted that in previous litigation between Llecholech and Ignacio Sadang, the court had found that Llecholech and his siblings were strong members of Ngersikesol Clan. *See Llecholech v. Sadang*, Civil Action No. 65-85 (Aug. 14, 1987). In this case, there was no testimony that Llecholech or any representative of his family consented to the alienation of the land. Moreover, there is support in the record for the Trial Division's finding that the use of the land after the eldecheduch did not support an inference that Llecholech later acquiesced in the transfer. Thus, the Trial Court's finding that the senior strong members did not consent to the transfer of the land is not clearly erroneous.

On appeal, Adelisa argues for the first time that the absence of strong members at an eldecheduch can be considered a waiver of any objection to the decisions made at that event. We will not consider this argument now because it was not presented below. *See Ngiraked v. Media Wide, Inc.*, 6 ROP Intrm. 102, 104 (1997).

The order of the Trial Division is therefore AFFIRMED.