

Rengulbai Lineage v. Medorm Hamlet, 9 ROP 118 (2002)
RENGULBAI LINEAGE,
Appellant,

v.

MEDORM HAMLET,
Appellee.

CIVIL APPEAL NO. 01-17
LC/M 00-509, 00-510

Supreme Court, Appellate Division
Republic of Palau

Argued: April 12, 2002
Decided: June 4, 2002

[1] **Appeal and Error:** Reversal

An appellant cannot obtain a reversal of the court below if all that party shows is that a different adverse party should have prevailed.

[2] **Return of Public Lands:** Elements of Proof

To prevail on a Return of Public Lands claim, a party must show that: (1) the party has filed a timely claim; (2) the party is either the original owner of the claimed property or one of the original owner's "proper heirs"; and (3) the property in question is public land which attained that status by virtue of a governmental taking that involved fraud or force, or was not supported by adequate consideration or just compensation.

Counsel for Appellant: Johnson Toribiong

Counsel for Appellee: Yukiwo Dengokl

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

Appeal from the Land Court, the Honorable DANIEL N. CADRA, Senior Judge, presiding.

PER CURIAM:

[1] This consolidated case stems from a dispute over three properties in Aimeliik State, identified by the Land Court as Lots 3, 4 and 5.¹ We deny the appeal because an appellant cannot

¹The Land Court adopted this system after finding that there were no formal lot numbers for the lands encompassed by the parties' claims. The properties were monumented on January 8, 2001, and the

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obtain a reversal of the court below if all that party shows is that a different adverse party should have prevailed.

In this case, Appellant claimed portions of Lots 3 and 4 as the individual property of Rengulbai Lineage. Uchel Paul Simang Takubang, the highest title holder of the strongest clan in Medorm Hamlet and consequently the hamlet's chief, asserted that Lots 3 and 4 are parcels owned by the hamlet.² Although originally noticed as a private land claim proceeding, the Palau Public Lands Authority and the Aimeliik State **L119** Public Lands Authority appeared at the hearing and asserted claims over portions of the lots. The Land Court subsequently chose to treat this matter as a Return of Public Lands case, a decision that Appellant has not challenged.

[2] To prevail on a Return of Public Lands claim under 35 PNC § 1304(b), a party must show that: (1) the party has filed a timely claim; (2) the party is either the original owner of the claimed property or one of the original owner's "proper heirs"; and (3) the property in question is public land which attained that status by virtue of a governmental taking that involved fraud or force, or was not supported by adequate consideration or just compensation. At trial, the Land Court determined that Appellant's proof as to the second element of this test was not credible, and entered factual findings accordingly. Appellant has not challenged those findings, so we will not disturb them now. *See Ngeremlengui Chiefs v. Ngeremlengui State Gov't*, 8 ROP Intrm. 178, 180 (2000).

Appellant's objection to the Land Court's determination is that it erred in awarding the Lots to Appellee because, as a hamlet, Appellee is not capable of owning land as a matter of law. If that contention is accepted for argument's sake,³ then the Land Court should have awarded the land to one of the public lands authorities. Therefore, any error in the award of the property does not inure to Appellant's benefit. Rather, the only parties whose interests were affected are the public lands authorities and they have waived this argument by failing to appeal. The Court therefore need not address the issues raised by Appellant, *see Mokoll v. Ibutirang*, 8 ROP Intrm. 114, 115-16 and n.3 (2000), and the appeal is denied.

CONCLUSION

For the foregoing reasons, the Land Court's Adjudication and Determination of March 20, 2001, is AFFIRMED.

Bureau of Lands and Surveys drew up BLS Worksheet WS-127 to reflect the markers laid down by the parties. That map did not assign lot numbers either, so the Land Court directed the parties to set forth their claims by reference to numbered rebar and concrete boundary markers.

Specifically, Lot 3 lies within markers 1007 to 1005 to 1008 to 1006 to 1002 to 1001 to 1014 to 830 to 828 to 5535 to 5533 to 5521 to 1009 and back to 1007. Lot 4 lies within markers 1014 to 1011 to 839 to 828 to 830 and back to 1014. Lot 5 lies within markers 829 to 832 to 1016 to 1015 to 833 to 831 and back to 829.

²The Land Court awarded Lot 5 to individual claimant Belechel Ngirngebedangel, a determination that has not been appealed.

³We do not intend to resolve here the issue of whether a hamlet can own property, a matter about which the Court has previously reserved judgment. *See Rurcherudel v. PPLA*, 8 ROP Intrm. 14, 15 (1999).