

Smanderang v. Elias, 9 ROP 123 (2002)
DIRRAKELAU SMANDERANG,
Appellant,

v.

IBLAI ELIAS,
Appellee.

CIVIL APPEAL NO. 00-09
LC/G 99-193

Supreme Court, Appellate Division
Republic of Palau

Decided: June 5, 2002¹

[1] **Appeal and Error:** Standard of Review

In order for the Appellate Division to be able to conduct meaningful appellate review, it is essential for a lower court clearly to articulate both its findings of fact and its conclusions of law.

[2] **Appeal and Error:** Remand

Where a lower court has failed to clearly set forth the basis for its determination, remand is necessary.

Counsel for Appellant: Carlos H. Salii

Counsel for Appellee: Ernestine K. Rengiil

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

Appeal from the Land Claims Hearing Office, Hearing Officers RENGULBAI, EMAUROIS,
and TEBEI, presiding.

PER CURIAM:

[1] In order for the appellate division to be able to conduct meaningful appellate review, it is essential for a lower court clearly to articulate both its findings of fact and its conclusions of law. In this case, the Land Claims Hearing Office, after remand, entered findings of fact but has neglected to explain the legal basis for its conclusion. A second remand is therefore necessary.

¹The parties waived oral argument, and the Court agrees that oral argument would not materially advance the resolution of this appeal.

BACKGROUND

This dispute arose over two properties, Tochi Daicho (“T.D.”) lots 308 (“Tukak”) and 359 (“Mechab”), located in Dims Hamlet, Kayangel State. The T.D. listed decedent, Mad Spis, as the owner of the lots in fee simple. After hearing, the Land Claims Hearing Office (“LCHO”) originally awarded the properties to Appellee Elias, one of decedent’s children, in an adjudication dated June 2, 1992. On June 13, 1994, Justice Beattie ordered the matter remanded to the LCHO on the ground that the hearing panel had failed to make findings of fact to support its determination of ownership. The LCHO took Justice Beattie at his word and issued a decision on May 29, 1995, containing several findings of fact but no conclusions of law or other analysis justifying how the LCHO reached its decision again to award the properties to Appellee. A copy of the LCHO decision was never served on Appellant Smanderang, however, and she only learned of the decision at a status conference on a related matter in 2000. Given this lack of notice, the Appellate Division allowed Appellant to file her appeal at that time.

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DISCUSSION

[2] Appellant contends that the LCHO erred by failing to apply 25 PNC § 301(b), on the ground that decedent was not a *bona fide* purchaser of the properties in question.² Appellant, who claimed the land on behalf of Delbochel Lineage, contends that the correct application of § 301(b) would result in her claim prevailing. Appellee, by contrast, asserts that the lineage has not shown that it is entitled to the properties even if § 301(b) is applied, and that, in any event, she is the proper party to receive the properties pursuant to § 301(a). We are not in a position to resolve this dispute, however, because the LCHO failed to articulate the basis for its decision. Consequently, we cannot discern whether it looked to either § 301(a) or (b), or how it applied the facts it found to whatever law it deemed applicable.³ In such a situation, where a lower court has failed to “clearly set forth the basis for its determination[,]” remand is necessary. *Tengadik v. Bitlaol*, 8 ROP Intrm. 204, 205 (2000). As the LCHO is no longer extant, the remand shall be to the Land Court, which may issue a decision based on the existing record or hold a new hearing as it sees fit. *See* 35 PNC § 1321(b).

²Evidence at the hearing indicated that decedent had acquired the properties from his own father. The LCHO found as a matter of fact that the properties were the individual property of decedent, but did not address the question of how he had obtained them.

³Although disposition of this appeal was delayed by Appellee’s desire to supplement the record with materials from related LCHO proceedings, she has not attempted to argue that those materials explain the basis for the determination at issue here.

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CONCLUSION

For the foregoing reasons, the Land Claims Hearing Office's Determination of May 29, 1995 is VACATED and the matter is remanded to the Land Court for further proceedings.