

Heirs of Drairoro v. Yangilmau, 9 ROP 131 (2002)
HEIRS OF DRAIRORO and BALTAZAR,
Appellants,

v.

FLORENTINE YANGILMAU,
Appellee.

CIVIL APPEAL NO. 00-24
Civil Action No. 354-93

Supreme Court, Appellate Division
Republic of Palau

Argued: March 29, 2002
Decided: June 20, 2002

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

The “mandate rule” requires that a trial court is not free to deviate from the appellate court’s mandate on remand.

[2] **Descent and Distribution:** Intestacy; **Judgments:** Designation of Parties

“Heirs” is an insufficient designation of the parties claiming an interest in land and it is incumbent upon the heirs to identify whom they believe, as a matter of law or custom, has succeeded to the interest of the original owners.

[3] **Descent and Distribution:** Intestacy; **Words and Phrases**

“Heir” means nothing more than the legal successor to the interest of the prior owners of a piece of property and conveys no information about what persons now own the land.

Counsel for Appellants: Mariano W. Carlos

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Counsel for Appellee: Yukiwo P. Dengokl

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

Appeal from the Supreme Court, Trial Division, the Honorable JEFFREY L. BEATTIE,
Associate Justice, presiding.

MILLER, Justice:

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In this second appeal of this case regarding land in Echang Village on Ngerkebesang Island, the heirs of a man named Drairoro and Baltazar (“the heirs”) contest the Trial Division’s decision upon remand. They argue that the court failed to comply with our instructions to determine on remand who among the purported heirs and Florentine Yangilmau – all of whom are descendants of Echang’s original settlers from the Southwest Islands – should hold title to Tochi Daicho Lots 1588, 1589, and 1590, which, in the cadastral resurvey, are designated as Lots 27 A 12, 27 A 14, and a portion of Lot 27 A 13. Because the trial court should have determined during the first remand who among the purported heirs to the Echang settlers should inherit the land, we vacate the trial court’s judgment and remand for the court to hold further proceedings.

Although our prior opinion in this case, *Dalton v. Heirs of Drairoro*, 7 ROP Intrm. 163 (1999), explained the background of this litigation, some facts are worth repeating. This action was filed to quiet title to the lands at issue in this appeal, as well as some other portions in or around Echang Village. After holding a trial, the Trial Division awarded Margarita Dalton all of the land as an heir of Jesus Borja. The heirs and Yangilmau appealed. This Court reversed the trial court’s determination in part, concluding that on remand, the Trial Division should resolve the competing claims to title to Tochi Daicho lots 1588, 1589, and 1590 among the descendants of the original Southwest islanders who originally settled Echang.

Instead of determining who among the purported heirs of the original settlers should hold title to the land, however, the Trial Division merely concluded that Yangilmau and the unspecified “heirs of Drairoro” own the land as co-owners. Furthermore, the court declined to address whether Yangilmau was an heir who could be entitled to inherit all of the land claimed by the heirs, rather than the smaller portion that he claimed individually. Nonetheless, the court granted in part the heirs’ motion to alter and amend the judgment, concluding that Yangilmau should not be allowed to own more land than he originally claimed in the lawsuit, and thus his ownership of Lot No. 1590 was restricted to the land area below the Echang Road. The heirs then filed a second motion to alter and amend the judgment, arguing that the court should limit Yangilmau’s interest to that part of the land he actually claimed, which was less than all of Lot No. 1590 below the Echang Road. The court denied this second motion.

The heirs now appeal, citing two primary sources of error. First, the heirs argue that the trial court should have determined and identified the heirs of Drairoro and Baltazar so that a certificate of title can be issued. Second, the heirs contend that the court mistakenly granted Yangilmau all of the land in Lot No. 1590 below the Echang Road because Yangilmau had never claimed all of that property.

[1] We believe that our prior opinion clearly mandated that on remand the Trial 1133 Division analyze the claims of the purported heirs, including Yangilmau, and determine who among them are now the owner or owners of the lands in dispute. Although Yangilmau, echoing the court below, points to the language in our prior opinion that “title . . . is properly vested in the Appellants,” *see* 7 ROP Intrm. at 168, the following paragraph of our decision made clear that those Appellants “are not unified in their interests . . . and several of them claim title to the lands in question . . . to the exclusion of their relatives.” *Id.* Because in its original judgment – in which the court awarded the lands to Dalton – the trial court “did not attempt to reconcile the

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various competing claims among the Appellants as to . . . who, if anyone, had superior title to the lands in question,” *id.*, we remanded the case specifically so that the trial court could make that determination.¹ As “the mandate rule” requires that a trial court “is not free to deviate from the appellate court’s mandate,” *Alik v. Ueki*, 6 ROP Intrm. 148 (1997) (internal quotations and citations omitted), we agree that the Trial Division erred in not determining on remand the precise identity of the heirs.

[2, 3] Because we are vacating the judgment entered by the Trial Division on remand, we do not address the heirs’ second contention that the judgment improperly awarded more land to Yangilmau than he originally claimed, and we leave to the Trial Division on this remand to determine whether and to what extent Yangilmau should be so limited in the further proceedings below. We moreover note that insofar as “Heirs of Drairoro and Baltazar” is an insufficient designation of the parties claiming an interest in the lands in question,² it will be incumbent upon the heirs to identify whom they believe, as a matter of law or custom, has now succeeded to the interests of the original owners, and it may be appropriate for the Trial Division to request supplemental pleadings further delineating the parties’ claims.

As a final matter, we note that the Tochi Daicho lot numbers at issue in this case do not correspond with the Bureau of Lands and Surveys (“BLS”) cadastral worksheet numbers describing the same land. Ordinarily this would not be an issue, but here the litigants claim a portion of land smaller than that which BLS delineated in the cadastral resurvey. Specifically, only a portion of Cadastral Lot No. 27 A 13 is claimed by the litigants in this case. When the Trial Division ultimately determines the proper holder(s) of title to the land, the court should then order a new BLS survey so that the certificates of title describe whole cadastral lots rather than a portion of a larger parcel.

Accordingly, the judgment of the trial **1134** court is vacated and this matter is remanded for further proceedings consistent with this opinion.

¹To the extent Yangilmau’s counsel suggested at oral argument that the Trial Division had actually made this determination, and had decided, *sub silentio*, that Yangilmau was one of the heirs of Drairoro, we disagree and simply note the trial court’s observation that “[t]here is no need for this Court to determine who the heirs of Drairoro are inasmuch as the Appellate Division already determined where title to the property is vested.” Decision on Remand at 10.

²“Heir” means nothing more than the legal successor to the interest of the prior owners of a piece of property. *See, e.g.*, Black’s Law Dictionary 727 (7th ed. 1999) (defining “heir” as “[a] person who . . . is entitled to receive an intestate decedent’s property . . .”). To say that the land is owned by the prior owners’ heirs is therefore tautological and conveys no information about what persons now claim to own the land and wish to have their names listed on a certificate of title ultimately to be issued.