

Rechetuau v. Iwet Clan, 9 ROP 16 (2001)
MERII RECHETUAU,
Appellant,

v.

IWET CLAN,
Appellee.

CIVIL APPEAL NO. 01-15
LC/H 00-368

Supreme Court, Appellate Division
Republic of Palau

Decided: September 7, 2001

[1] **Appeal and Error:** Remand; **Land Commission/LCHO/Land Court:** Remand

A motion to remand to the Land Court shall be granted when factual issues are raised that cannot be resolved on the current record.

[2] **Appeal and Error:** Remand; **Land Commission/LCHO/Land Court:** Remand

A motion to remand to the Land Court was appropriate when a legal question was raised that involved the interpretation of a potentially ambiguous Land Court regulation that could have had a wider impact on its ongoing mediation program.

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice; KATHLEEN M. SALII, Associate Justice.

[1, 2] Appellant Merii Rechetuau has moved to remand this appeal to the Land Court to allow for an evidentiary hearing regarding Determination of Ownership No. 08-47, which was issued pursuant to a Settlement Agreement and Stipulation for Entry of Judgment. Appellant raises two issues on appeal: (1) Was the Settlement Agreement invalid because it was not acknowledged under oath; and (2) Did Appellant sign the Settlement Agreement on the basis of the mediator's erroneous assurance that a hearing would still be held? The second issue unquestionably raises factual issues that cannot be resolved on the current record. Although the first issue raises a legal question that might now be considered by this Court, that question involves the interpretation of a potentially ambiguous Land Court regulation that could have a wider impact on its ongoing mediation program. We think, therefore, that the better course is to defer any ruling on that question until the Land Court has had the opportunity to address it in the first instance. Appellant's motion to remand is therefore granted.¹

¹If the Land Court determines the legal issue in Appellant's favor, and determines that she is entitled to a hearing on the merits of her claim, then it obviously need not hold an evidentiary hearing on the second issue she raises.