

Tangelbad v. Siwal Clan, 9 ROP 169 (2002)
SYLVIA TANGELBAD and SECHELONG ANATONIO KIKUO,
Appellants,

v.

SIWAL CLAN,
Appellee.

CIVIL APPEAL NO. 01-11
LC/B 00-248, 00-429, 00-430, and 00-431

Supreme Court, Appellate Division
Republic of Palau

Decided: August 19, 2002¹

[1] **Evidence:** Exclusion; Land Court; **Land Commission/LCHO/Land Court:** Evidence

Land Court Rule of Procedure 6 governs the exclusion of evidence, not whether the Land Court should find the evidence worthy of credit.

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

It is not clear error for the Land Court to credit one proffer of evidence over another so long as one view of the evidence supports the factfinder's decision.

[3] **Land Commission/LCHO/Land Court:** Evidence; **Land Registration:** Certificate of Title

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Although certificates of title are conclusive of ownership of Bureau of Lands and Surveys surveyed land, such certificates are not necessarily conclusive of ownership of land outside the surveyed boundaries delineated in that certificate.

[4] **Appeal and Error:** Clear Error

The clear error standard states that a lower court's findings of fact will not be set aside as long as they are supported by such relevant evidence that a reasonable trier of fact could have reached the same conclusion, unless the Appellate Division is left with a definite and firm conviction that a mistake has been made.

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

The Appellate Division generally defers to the trial court's findings regarding witness credibility.

¹The parties waived oral argument and, upon reviewing the briefs and the record, the panel agreed that the case was appropriate for submission without oral argument pursuant to ROP R. App. Pro. 34(a).

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

Where it is not explained how an error improperly influenced the court's decision, the mistake is harmless and will not result in the reversal of a decision.

Counsel for Appellants: Ernestine Rengiil

Counsel for Appellant: Carlos Salii

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

Appeal from the Land Court, the Honorable J. UDUCH SENIOR, Associate Judge, presiding.

PER CURIAM:

Sylvia Tangelbad and Sechelong Anatonio Kikuo appeal the Land Court's denial of their claims to two parcels of land in Iyebukel Hamlet, Koror State, identified as Bureau of Lands and Surveys ("BLS") Worksheet Lot Numbers 182-171A, 182-171C, and 182-173 ("the disputed properties"), which were awarded instead to Siwal Clan. They contend that the court improperly failed to credit one of their exhibits submitted at the hearing on their claims; erroneously concluded that the land they claimed had been already adjudicated; and mistakenly stated in its findings of fact that they claimed a parcel of land that they actually did not claim. Because none of these allegations of impropriety constitutes reversible error, we affirm the Land Court's decision.

Pursuant to the ongoing land registration process, in 1993 Tangelbad and Kikuo (jointly and on behalf of Raelblai Lineage) and Bilung Gloria Salii (on behalf of Siwal Clan) filed claims for land now identified as Worksheet Lot Numbers 182-171A, 182-171C, and 182-173. At a hearing held on October 3-4, 2000, at which no party was represented by counsel, Salii argued that these worksheet lot numbers corresponded with Tochi Daicho Lot Nos. 797-part and 752, and that the Tochi Daicho showed that Siwal Clan owned the land. Tangelbad and Kikuo countered that the worksheet lot numbers at issue corresponded with Tochi Daicho Lot Nos. 750 and 751, which are registered under the name Raelblai. A recess was held during the hearing so that the court and the parties could go to the land dispute site and Tangelbad could demonstrate to the court the boundaries of Kikuo's and her joint claim. Furthermore, after Salii gave an oral closing argument, the court permitted Tangelbad to submit a written closing, to which Salii responded.

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On January 29, 2001, the Land Court issued its findings of fact, conclusions of law, and determination. After summarizing the testimony of the parties' witnesses and identifying the registered landowners for the disputed Tochi Daicho lot numbers, the court decided that Siwal Clan owned all of the disputed properties. In making this conclusion, the court stated that Tangelbad and Kikuo jointly claimed Worksheet Lot No. 182-171B, even though Tangelbad and

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Kikuo never filed a claim for this land and, at the hearing, explicitly denied having such a claim. Additionally, the court did “not give any weight” to one of Tangelbad’s admitted exhibits, a purported Tochi Daicho map of the area in dispute, and to two of Salii’s exhibits, “because [the] claimants failed to lay a foundation.” Determination at 8.

The court went on to credit the testimony of Salii and her witness Roman Remoket, and reject “the conflicting testimony of the other claimants and their witnesses,” explaining that although Salii “was specific in her testimony and testified from her own personal knowledge,” Tangelbad’s testimony “was vague and sketchy.” Determination at 9. Furthermore, the court found that Tangelbad and Kikuo’s witnesses, Alfonso Mulbong and Angelina Kerungil Benardino, were not credible relative to Siwal Clan’s witnesses. The court also took judicial notice of Land Claims Hearing Office (“LCHO”) records showing that on April 12, 1994, a determination of ownership was issued to Raelblai Lineage (which Tangelbad represented) for Temporary Lot No. 182-171, Tochi Daicho Lot No. 750, and that on October 19, 1998, a certificate of title was issued to Raelblai Lineage for Cadastral Lot No. 031 B 02, identified as Tochi Daicho Lot No. 751. In light of these facts, the court concluded that claims to Tochi Daicho Lot Nos. 750 and 751 had been adjudicated previously, thus precluding Tangelbad and Kikuo’s instant claims to the same lots.

[1, 2] Tangelbad and Kikuo filed this appeal, alleging three flaws in the Land Court’s decision, none of which constitutes clear or reversible error. *See Ngetchab Lineage v. Klewei*, 8 ROP Intrm. 116, 117 (2000) (Appellate Division reviews Land Court findings for clear error). First, they contend that because the ROP Rules of Evidence do not apply to Land Court Proceedings, it was error for the court to discredit one of Tangelbad’s exhibits, the purported Tochi Daicho map, on the basis of Tangelbad’s failure to lay a proper foundation. They explain that because the exhibit was “relevant evidence” pursuant to Land Court Rule of Procedure 6, the court should have given it weight. This argument, however, misconstrues both Rule 6 and the record. Rule 6 – which provides that all relevant evidence shall be admitted in Land Court proceedings so long as its probative value is not outweighed by other considerations not relevant here – governs the *exclusion* of evidence, not whether the Land Court should find the evidence worthy of credit. As we read the decision and the hearing transcript, the Land Court did allow the exhibit into evidence, but ultimately concluded that it lacked substance and thus should not be accorded weight in the court’s final determination. This Court has held repeatedly that it is not clear error for the Land Court to credit one proffer of evidence over another so long as one view of the evidence supports the factfinder’s decision. *See, e.g., Ramon v. Telungalek ra Silang*, 8 ROP Intrm. 124, 125 (2000); *Ngetchab Lineage*, 8 ROP Intrm. at 117; *Lakobong v. Tebei*, 8 ROP Intrm. 87, 89 (1999). In this case, the testimony of Salii and Remoket supports the Land Court’s determination, and thus the court acted within bounds when it found Tangelbad’s exhibit to **L172** be undependable.

[3-5] Similarly lacking merit is Tangelbad and Kikuo’s challenge to the court’s statement that the prior determination of Tochi Daicho Lot Nos. 750 and 751 precluded their claim on the same Tochi Daicho lot numbers in the instant case. As an initial matter, we understand that Tangelbad and Kikuo are making the same argument that found success in *Dilubech Clan v. Ngeremlengui State Gov’t*, 8 ROP Intrm. 106, 110 (2000). In that case, the Appellate Division recognized that

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although certificates of title are conclusive of ownership of BLS surveyed land, such certificates are not necessarily conclusive of ownership of land outside the surveyed boundaries delineated in that certificate. *Id.* Here, Tangelbad and Kikuo appear to argue that not all of the land contained in Tochi Daicho Lot Nos. 750 and 751 was adjudicated in the earlier determination, and so the ownership of portions of those lots have not been determined. Were it not for the tenor of the Land Court's decision, this argument would be plausible. Clearly, however, the Land Court's statement that Tangelbad and Kikuo are precluded from claiming Lot Nos. 750 and 751 is an alternative ruling not essential to the disposition of the case. *See Arbedul v. Romei Lineage*, 8 ROP Intrm. 30, 32 (1999) (error not essential to Land Court's decision immaterial and reversal not appropriate). As we read the determination, the Land Court first and foremost decided the claims by assessing the relative credibility of the witnesses. Under the clear error standard, which applies in this case, a lower court's "findings of fact will not be set aside as long as they are supported by such relevant evidence that a reasonable trier of fact could have reached the same conclusion, unless [the Appellate Division] is left with a definite and firm conviction that a mistake has been made." *In re Estate of Rengiil*, 8 ROP Intrm. 118, 119 (2000). Here, the court's determination is supported by the testimony of Salii and Remoket, which the court found to be more credible than the testimony of Tangelbad, Kikuo, and all of their witnesses. And as this Court generally defers to findings regarding a witness's credibility, *Kerradel v. Elbelau*, 8 ROP Intrm. 36, 37 (1999), the Land Court's determination was not clearly erroneous.

[6] Tangelbad and Kikuo's final argument borders on the frivolous. They point out the Land Court misstated that they claimed Worksheet Lot No. 182-171B when, in fact, they had not claimed that property. But Tangelbad and Kikuo do not attempt to explain how the Land Court's error improperly influenced the court's decision regarding the property they did claim. As the mistake patently is harmless, it certainly does not call for reversal of the decision. *See, e.g., Arbedul*, 8 ROP Intrm. at 32.

Accordingly, and for the foregoing reasons, we affirm the Land Court's determination of ownership.