IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

EBECHOEL LINEAGE,
Appellant,
v.
CHILDREN OF KESIIL SOALABLAI,
Appellees.

Cite as: 2016 Palau 11
Civil Appeal No. 14-039
Appeal from LC/R Nos. 12-030, 01-351, 05-135, 02-184

Decided: May 10, 2016

Counsel for Appellant.....Salvador Remoket
Counsel for Appellees.....Pro Se

BEFORE: KATHLEEN M. SALII, Associate Justice
LOURDES F. MATERNE, Associate Justice
HONORA E. REMENGESAU RUDIMCH, Associate Justice Pro Tem

Appeal from the Land Court, the Honorable Salvador Ingereklii, Associate Judge, presiding.

OPINION

PER CURIAM:[1]

[¶ 1] This appeal arises from the Land Court's award of two parcels of land in Peleliu, together known as *Kollil*, to Appellees, the children of Kesiil Soalablai. Appellant Ebechoel Lineage, a claimant in the case below, now appeals, arguing that the Land Court erred by rejecting its claims to *Kollil*. For the reasons that follow, we affirm.

BACKGROUND

[¶ 2] *Kollil* consists of two of the ten worksheet lots comprising Tochi Daicho lots 1324 and 1325.[2] In the case below, Ebechoel Lineage claimed

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[1] We determine that oral argument is unnecessary to resolve this matter. ROP R. App. P. 34(a).

[2] Specifically, *Kollil* consists of worksheet lots 289 R 475 and 289 R 535.

ownership of all ten of the worksheet lots under a theory of adverse possession.[3] Ebechoel Lineage's witness, Jackson Ngiraingas, testified that members of Ebechoel Lineage had constructed a pig farm on a substantial portion of Tochi Daicho lots 1324 and 1325 in the 1970s or 1980s and had maintained it for at least 20 years. At various times during that period, he and other members of Ebechoel Lineage had told others not to enter or interfere with the land and had even brought suit against some who had attempted to clear the land of brush. Ngiraingas also testified that Ebechoel Lineage gave permission to several people to use portions of the ten claimed worksheet lots: it gave permission to one Soad, the husband of one Isako, to use a portion of the land for another pig farm, and it also gave permission to Kesiil Soalablai to use *Kollil*.[4]

[¶ 3] Kalbesang Soalablai, who represented Appellees in the case below, claimed only the two lots comprising *Kollil*. He testified that his mother, Kesiil, claimed a right to *Kollil* through her relationship to the person listed as the owner in Tochi Daicho, that her grandmother at one time had resided there, and that she and her descendants have been cultivating the land without objection from anyone for over 60 years. Kalbesang emphasized that no one else has entered or used the land and that no one objected to Kesiil's or her children's use of the land.

[¶ 4] The Land Court awarded *Kollil* to Appellees. Although it noted Ngiraingas' testimony that Ebechoel Lineage had given permission for Kesiil to use *Kollil*, the court also observed that Ngiraingas did not dispute that Kesiil and her ancestors had settled *Kollil* long before Ebechoel Lineage members had constructed their pig farm and that her family had maintained a presence there, possessing *Kollil* without anyone objecting. Thus, the court found that "[e]vidence adduced at the hearing established that . . . [Kesiil's

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[3] Ebechoel Lineage also claimed ownership as a successor in interest to the owner named in the Tochi Daicho. The Land Court rejected this theory of ownership, and Ebechoel Lineage does not challenge that rejection on appeal.

[4] The Court notes that, in its closing argument, Ebechoel Lineage stated that it "ha[d] allowed people to use the land, i.e. piggery farm of Soad and his family, family of K[a]lbesang Soalablai, and others." Ebechoel Lineage Closing Argument at 4 (Aug. 18, 2014).

family] have cultivated and used the land for many years without objections from anyone." Determination at 18 (Oct. 22, 2014). The court concluded that Appellees' long history of use and possession was consistent with their ownership and, therefore, that a determination of ownership in their favor was appropriate.

[¶ 5] The Land Court awarded the remaining eight worksheet lots to Ebechoel Lineage, concluding that it had proven adverse possession with respect to those lots. The court also noted that Ebechoel Lineage had taken action consistent with its ownership of the land, including—aside from its preventing entry and use by others—its "allow[ing] others to use[] the land for farming." Determination at 15.

[¶ 6] Ebechoel Lineage appeals, challenging the award of *Kollil* to Appellees.

STANDARD OF REVIEW

[¶ 7] "We review the Land Court's conclusions of law de novo and its findings of fact for clear error." *Kebekol v. Koror State Pub. Lands Auth.*, 22 ROP 38, 40 (2015). "'The factual determinations of the lower court will be set aside only if they lack evidentiary support in the record such that no reasonable trier of fact could have reached the same conclusion.'" *Id.*

DISCUSSION

[¶ 8] On appeal, Ebechoel Lineage raises two arguments. First, Ebechoel Lineage argues that the Land Court clearly erred by finding that Ngiraingas, in his testimony, did not dispute that Appellees' ancestors had settled *Kollil* by building a residence and maintaining a presence there for over 60 years. Ebechoel Lineage contends that Ngiraingas testified that *Kollil* was not land that could have been settled, as it was either mangrove forest or too soft to be used for anything but cultivating taro. From this, Ebechoel Lineage reasons that the Land Court should have inferred that Ngiraingas disputed Appellees' assertion that their ancestors had established a residence at *Kollil*.

[¶ 9] Ebechoel Lineage grossly mischaracterizes Ngiraingas' testimony. Ngiraingas' testimony is hardly a model of clarity, and he never referred to *Kollil* or any other land as land on which people could not settle or build a

residence. Ngiraingas did describe some of the land as soft, but it is not clear from the transcript to which worksheet lot number he referred.[5] Similarly, Ngiraingas did describe certain portions of land as *delbochel*, indicating that they became usable only after a road was built in the area during the Japanese period,[6] but, again, it is not clear from the transcript to which worksheet lot numbers he referred.[7]

[¶ 10] "It is the trial court's task as the trier of fact to determine the factual content of ambiguous testimony." *Pamintuan v. ROP*, 16 ROP 32, 54 (2008) (citing *Labarda v. ROP*, 11 ROP 43, 46 (2004)). Thus, where testimony is subject to multiple reasonable interpretations, a court's choice between them cannot be clearly erroneous. *See Kebekol*, 22 ROP at 40. Similarly, it is the trial court's task as the trier of fact to determine what inferences should or should not be drawn from the evidence adduced. *See Ebilklou Lineage v. Blesoch*, 11 ROP 142, 145 (2004); *see also Salii v. Koror State Pub. Lands Auth.*, 17 ROP 157, 160 (2010) ("It is not the appellate panel's duty to . . . draw inferences from the evidence." (alteration, quotation

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[5] Asked where certain banana trees were located, Ngiraingas replied, "They are on lot no. 289 R 533 and to 289 R 535 and like that. This, when you come this way, it's like you cannot plant anything in that area because it's soft." Tr. at 15.

[6] *Delbochel* translates as "invented; introduced; composed." Lewis S. Josephs, *New Palauan-English Dictionary* 71 (1990). Although far from clear, it appears Ngiraingas used this term to refer to lands that had once been submerged lands or mangrove forest that had since become usable after being filled or otherwise altered during the Japanese period. *See* Tr. at 13-15.

[7] After describing a lot that had been used by Soad, lot 289 R 471B, Ngiraingas was asked whether "in this area[,] there is something like a taro patch." Tr. at 13. He replied that "[t]here are taro patch[es] when you go further inside. Actually this was all *delbochel*" and that the taro patches could be reached by following a "big road." *Id.* After locating the road on a map, Ngiraingas stated, "there are some taro patches over here," clarifying their location in lot numbers 289 R 536 and 289 R 475. *Id.* at 14.

The only other parcel Ngiraingas described as *delbochel* he located "between lot 289 R 537 and 289 R 471A." *Id.* at 15. Those two lots are adjacent to each other.

marks, citation omitted)). Where more than one permissible inference exists, the trial court's choice between them is not clear error. *See Edaruchei Clan v. Sechedui Lineage*, 17 ROP 127, 131 (2010); *Espong Lineage v. Tmetuchl Family Trust*, 10 ROP 55, 57 (2003); *Remeskang v. West*, 10 ROP 27, 29 (2002).

[¶ 11] Here, Ngiraingas' testimony was ambiguous regarding whether *Kollil*, rather than any other nearby parcel, was soft land or *delbochel*. Therefore, any determination by the Land Court that Ngiraingas was not referring to *Kollil* cannot amount to clear error. Further, even if Ngiraingas had clearly referred to *Kollil* as soft land or *delbochel*, the Land Court was under no obligation to infer from this testimony that Ngiraingas contested Appellees' assertion that their ancestors had established a residence at *Kollil* and had settled the land there. The Land Court's choice to decline to make such an inference is not clear error.

[¶ 12] Second, Ebechoel Lineage argues that the Land Court clearly erred by crediting Ngiraingas' testimony as proof of Ebechoel Lineage's adverse possession claim while also discrediting that same testimony in awarding *Kollil* to Appellees. As Ebechoel Lineage views the record, the Land Court accepted Ngiraingas' testimony that Kesiil had asked for, and received, permission from E bechoel Lineage to use *Kollil*, and it relied on this grant of permission as evidence that Ebechoel Lineage had acted in a manner consistent with its ownership of the lands at issue, including *Kollil*. Despite implicitly finding that Kesiil had possessed *Kollil* only by Ebechoel Lineage's permission, the Land Court then awarded *Kollil* to Kesiil's descendants after finding that Kesiil and her descendants had possessed the land in a manner consistent with ownership without anyone objecting. Ebechoel Lineage claims that the Land Court could not credit Ngiraingas' testimony for one purpose, while discrediting that same testimony for another purpose, without committing clear error.

[¶ 13] It is unnecessary to determine categorically whether a trial court may credit a witness's testimony for one purpose and discredit that witness's same testimony for another purpose because, we conclude, that has not occurred here. In the instant case, the Land Court found that Ebechoel Lineage had granted permission to "others" to use portions of Tochi Daicho

lots 1324 and 1325 and that this supported its claim to ownership to *some* of lots 1324 and 1325.[8] The Land Court also found that Kesiil and Appellees had possessed and used *Kollil* for decades without objection, strongly suggesting that their possession was not through Ebechoel Lineage's permission. There was also evidence that Ebechoel Lineage had granted permission to Soad and Isako to use its land, an act consistent with Ebechoel Lineage's claim of ownership by adverse possession. Although the Land Court did not expressly state that the "others" to whom it referred were Soad and Isako, rather than Kesiil and her descendants, that determination appears implicit to us.

[¶ 14] We have long held that, "'[a]lthough a trial court decision must contain sufficient findings supporting its conclusions to allow for appellate review, there is no rule that the court must make a finding with respect to every piece of evidence submitted . . . .'" *Ngoriakl v. Gulibert*, 16 ROP 105, 109 (2008) (quoting *Ngirutang v. Ngirutang*, 11 ROP 208, 211 (2004)); *accord Rechucher v. Ngirmeriil*, 9 ROP 206, 210 (2002). "When findings of fact are reviewed in the context of a full record, it may be very clear" how the trial court viewed the evidence. *Ngirutang*, 11 ROP at 211 (citing *Ngirakebou v. Mechucheu*, 8 ROP Intrm. 34, 35-36 (1999)); *see also Uchelkumer Clan v. Isechal*, 11 ROP 215, 220 (2004); 9C Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2577 (3d ed. 2008) ("Findings are construed liberally in support of a judgment, even if the findings are not as specific or detailed as might be desired."). Thus, in certain cases, even "if the court fails to make a finding on a particular fact[,] it [may] be[] assumed . . . that it impliedly made a finding consistent with its general disposition of the

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[8] According to Ebechoel Lineage, the Land Court found that Ebechoel Lineage granted others permission to use portions of lots 1324 and 1325 and then relied on this finding to conclude that Ebechoel Lineage owned *all* of lots 1324 and 1325. Ebechoel Lineage questions how, after reaching such a conclusion, the Land Court could later determine that some of the land was owned by Appellees. The simple answer is that the Land Court only concluded that Ebechoel Lineage's permitting use supported its claim to *some* of lots 1324 and 1325. In fact, the header of the section of the decision that disposes of Ebechoel Lineage's claim clearly states that its determination in favor Ebechoel Lineage's claim applied only to *some* of lots 1324 and 1325.

case." 9C Wright & Miller, *supra*, § 2579; *see Zack v. Comm'r*, 291 F.3d 407, 412 (6th Cir. 2002); *Burkhard v. Burkhard*, 175 F.2d 593, 596 (10th Cir. 1948); *cf.* 9 James Wm. Moore, *Moore's Federal Practice* § 52.15(2)(b) (3d ed. 2011) ("A decision between the positions of two litigants necessarily rejects contentions made by one or the other. The trial court's failure to discuss each party's contentions does not make the findings inadequate . . . .").

[¶ 15] Here, as in similar cases, "the trial court's findings of fact . . . provide ample analysis of how its conclusions were reached." *Rechucher*, 9 ROP at 210. Reviewing the record, it is clear that the Land Court found that Kesiil and her descendants had possessed *Kollil* consistent with their ownership and that it rejected Ngiraingas' testimony that they had done so only by permission. The obvious inference to be drawn from the Land Court's finding that "others" had used the lands only by Ebechoel Lineage's permission is that it was referring to Soad and Isako, not to Kesiil and her descendants. These findings are consistent with each other and with the Land Court's decision. We discern no clear error in them.

CONCLUSION

[¶ 16] For the reasons set forth above, the Land Court's decision and determinations of ownership are **AFFIRMED**.

SO ORDERED, this 10th day of May, 2016.