IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

KOICHI WEST, rep. by KARLA WEST,
Appellant,
v.
INARIA DOU,
Appellee.

Cite as: 2023 Palau 15
Civil Appeal No. 22-015
Appeal from Case No. LC/F 19-00084

Decided: June 5, 2023

Counsel for Appellant ..... Vameline Singeo
Counsel for Appellee ..... Raynold B. Oilouch

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice, presiding
FRED M. ISAACS, Associate Justice
ALEXANDRO C. CASTRO, Associate Justice

Appeal from the Land Court, the Honorable Rose Mary Skebong, Senior Judge, presiding.

OPINION

PER CURIAM:

[¶ 1] Koichi West appeals the Land Court's Judgment awarding Cadastral Lot No. 19 F 04-011 to Inaria Dou. He argues that the Land Court erred in doing so, when it had previously determined in a prior case with the same parties, same facts, and same customary law, that land from the same estate should be attributed to Koichi.

[¶ 2] Because we find that the outcome of this case is controlled by the doctrine of collateral estoppel, we **REVERSE**.

BACKGROUND

[¶ 1] This case concerns Cadastral Lot No. 19 F 04-011, Tochi Daicho No. 1247 ("Lot 1247") located in Mengellakl Hamlet, Ngarchelong State. The Tochi Daicho lists a man named Dou as owner of this lot. Dou passed away in 1978. His daughter Appellee Inaria Dou ("Inaria") and his adopted brother Appellant Koichi West ("Koichi")[1] now dispute the ownership of Lot 1247.

[¶ 2] Dou was adopted by West and his wife, Kekereldil. West and Kekereldil also adopted Ucherriang. Ucherriang gave birth to three children, including Koichi. West and Kekereldil then adopted all three children of Ucherriang. Thus, Koichi and Dou became adopted siblings.

[¶ 3] Dou passed away in 1978, and his relatives held a *cheldecheduch*. Three lands were not disposed of during the *cheldecheduch*: the lot at issue in this case, as well as Tochi Daicho Lots 1271 and 1281.

[¶ 4] During a prior adjudication on January 26, 2018, the Land Court disposed of Lots 1271 and 1281 (the "2018 decision"). Both Koichi and Inaria were parties to the case. The Land Court awarded ownership of the two lots to Koichi, after finding that under customary law, any property not given out during the *cheldecheduch* remains with the husband or his relatives, to be disposed of at their discretion.[2] Because Koichi was the only relative of Dou who claimed, he had the authority to dispose of the land. The case was not appealed thereafter.

[¶ 5] On June 30, 2022, the Land Court issued a decision awarding Lot No. 1247 to Inaria (the "2022 decision"). During the hearing, the Land Court heard testimony from Mathias Erbai ("Mathias"), who stated that Dou was his great uncle. Mathias' mother Umai is Dou's maternal niece. Mathias alleged that his mother had instructed him that Dou's land should go to his daughter Inaria. Mathias explained that the land should belong to Dou's

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[1] Koichi West passed away in 2012, but his daughter Karla West represents her late father's claim.

[2] Under Palauan custom, this does not include the relatives who are the beneficiaries of the *cheldecheduch* such as Dou's wife and their children, such as Inaria.

children, and not Koichi's children, because Ucherriang and Dou were adopted to Kekereldil through different connections,[3] and as such, their properties should be kept separate. Additionally, Dilutelchii Ngirengkoi ("Dilutelchii"), who is also a daughter of Umai, confirmed that Umai had told Inaria to claim Dou's properties.

[¶ 6] The Land Court found that although Lots 1271 and 1281 had been awarded to Koichi West, Lot 1247 was distinguishable because a relative of Dou expressed her desire that the property should go to Dou's children. As such, it awarded Lot 1247 to Inaria. Koichi appeals this decision.

STANDARD OF REVIEW

[¶ 7] This Court has held:

> We review the Land Court's conclusions of law *de novo* . . . . We review the Land Court's factual determinations for clear error and will reverse its findings of fact only if the findings so lack evidentiary support in the record that no reasonable trier of fact could have reached the same conclusion. We will not substitute our view of the evidence for the Land Court's, nor are we obligated to reweigh the evidence or reassess the credibility of witnesses.

Badureang Clan v. Koror State Pub. Lands Auth., 20 ROP 80, 82 (2013).

[¶ 8] We also bear in mind that a lower court's determinations of customary law are reviewed de novo. *Beouch v. Sasao*, 20 ROP 41, 50 (2013)

DISCUSSION

[¶ 9] Appellant Koichi asserts that the Land Court's determination violated different theories: the law of the case doctrine, the doctrine of res judicata, and collateral estoppel.

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[3] Mathias testified that Dou was the biological son of Marchau, and was adopted by Kekereldil because Kekereldil was the daughter of Marchau's maternal uncle. On the other hand, Ucherriang was the daughter of Ngebekai.

[¶ 10] First, Koichi claims that the Land Court is bound by the law of the case doctrine. Pursuant to the doctrine, "a court is generally precluded from reconsidering an issue previously decided by the same court, or by a higher court in the identical case." *Renguul v. Ngiwal State*, 11 ROP 184, 186 (2004). Koichi rightfully points out that the current matter has the same parties, same facts, and same legal theories as the 2018 decision. Nonetheless, the 2018 decision and the 2022 decision deal with different subject matters: the 2018 decision concerns the ownership of Lots 1281 and 1271, while the 2022 decision on appeal is limited to Lot 1247. *See Idid Clan v. Demei*, 17 ROP 221, 228 (2010) (finding that a previous determination on one Tochi Daicho lot did not affect the later rulings on other lots). Consequently, the two decisions do not concern an "identical case" and the doctrine cannot apply.

[¶ 11] Second, Koichi claims that the doctrines of res judicata and collateral estoppel are applicable to this case. Res judicata,[4] or claim preclusion, "generally bars a subsequent claim that concerns any issue actually litigated and determined by an earlier final judgment between the same parties." *Carlos v. Carlos*, 19 ROP 53, 58 (2012) (internal quotations omitted). On the other hand, collateral estoppel, or issue preclusion, applies "when an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim." *Salii v. Terekiu Clan*, 19 ROP 166, 170 (2012) (quoting *Azuma v. Ngirchechol*, 17 ROP 60, 65 (2010)). As to

[¶ 12] Res judicata deals with subsequent actions on the same claim, although it may also bar an issue that ought to have been litigated during a prior claim. *See Carlos*, 19 ROP at 58; *Ngerketiit Lineage v. Tmetuchl*, 8 ROP 122, 123 (2000) (holding that a claim that "could have, and should have, been raised" in earlier proceedings is barred in later proceedings). A claim to one piece of land cannot be considered the same as a claim to a different lot. *Osarch v. Bai*, 5 ROP Intrm. 327, 328 (Tr. Div. 1995) (finding that a prior

[4] Although the terms "res judicata" and "issue preclusion" are often used interchangeably, "true res judicata" is claim preclusion. Issue preclusion is more aptly called collateral estoppel. *Salii v. Terekiu Clan*, 19 ROP 166, 170 n. 2 (2012).

action on a different lot did not trigger res judicata). There is also no question as to whether the claim on Lot 1247 ought to have been raised earlier, as both Koichi and Inaria claimed all three lots at the same time, and the claims were separated by the Land Court's scheduling. Consequently, res judicata cannot apply to this case for the same reason as the law of the case doctrine—the 2018 decision dealt with different lots than the piece of land subject to the 2022 decision.

[¶ 13] Collateral estoppel is the suitable doctrine to resolve this appeal. The 2018 case hinged upon one crucial finding: the finding that under the applicable custom, the properties that were not given out during the *cheldecheduch* "remain subject to the discretion of Dou's relatives—not including the relatives who are the beneficiaries of the *cheldecheduch* such as Dou's wife and the children she bore—which in this case is claimant Koichi West." *See* In re Tochi Daicho Lots 1281, 1271, and 1272, No. LC/F 16-00068, No. LC/F 16-00077 and No. LC/F 16-00071 (Jan. 26, 2018).

[¶ 14] Our case law establishes that "the property passes to the proper customary heir or heirs and who the customary heir happens to be is a question of fact to be established by the parties before the land court." *Ikluk v. Udui*, 11 ROP 93, 95 (2004). "An heir is nothing more than the legal successor to the interest of the prior owner of a piece of property." *Drairoro v. Yangilmau*, 14 ROP 18, 25 (2006). The 2018 decision resolved the identity of Dou's heir: the Land Court properly found what custom governs this situation, and based on this custom, ruled that Koichi had the authority to dispose of Dou's property and designate himself as heir.[5] Therefore, the issue of Dou's heirs has been actually litigated and determined by an earlier final judgment between the same parties. The 2018 judgment plainly depended upon that determination—the identity of Dou's heir was essential to determine who owned Lots 1281 and 1271. In other words, the Land Court's attribution of Lots 1281 and 1271 to Koichi did not depend on any findings specific to these lots, but hinged on the finding that Koichi was a relative with authority to dispose.

[5] We have previously recognized that a person who has authority to dispose of the land can decide to attribute the land to herself or himself. *See e.g.*, *Delbirt v. Ruluked*, 13 ROP 10, 12 (2005).

[¶ 15] While Inaria argues that the circumstances presented below differ from the 2018 decision, the record does not support that assertion. The 2022 decision adopted the same custom, applied the same facts, to the same parties, but reached a different result than in 2018. The only difference between the two cases is Umai's instruction that the property should go to Inaria as testified to by Mathias and Dilutelchii. However, no expert testimony on custom was presented to explain why Dou's biological relative (Umai) had more authority than Dou's brother (Koichi), albeit adopted, over the disposition of his property that was not disposed at the *cheldecheduch*.[6] Nor did the Land Court explain why the intricacies of one's adoption and the origin of the land made a difference. In short, there is no factual finding specific to Lot 1247, besides being a different lot, that would distinguish it from the prior action, and Koichi is still a relative of Dou with the authority to dispose of his property. Therefore, the findings in the 2018 decision have a preclusive effect in this case, and Koichi's claim prevails.

CONCLUSION

[¶ 16] We **REVERSE** the Land Court's judgment and direct the Land Court to issue a certificate of title to Lot 1247 to the Estate of Koichi West in accordance with its claim.

[6] Even if there was testimony that, under custom, a biological relative had more authority over a deceased's individual property than his adopted sibling, we are still doubtful that Umai (or any of her children—Mathias and Dilutelchii) can dictate the disposition of Lot 1247 where she failed to file a claim. *See Ngirchokebai v. Reklai*, 8 ROP Intrm. 151, 152 (2000) (ruling that heirs to property who fail to claim the property waive their right to it).