

**IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION**

**OBECHOU LINEAGE, rep. by URIIK SECHARMIDAL
PEREDO, and OMCHUONG LINEAGE, rep. by MARY
FRANCES “SISCA” REMENGESAU VOGT,¹**

Appellants,

v.

**NGERUANGEL LINEAGE OF MOCHOUANG CLAN, rep.
by WILLIAM NGIRAIKELAU,**

Appellee.

Cite as: 2024 Palau 2
Civil Appeal No. 23-013
Appeal from Civil Action No. 21-025

Decided: January 22, 2024

Counsel for Appellants	Johnson Toribiong
Counsel for Appellee	Siegfried B. Nakamura

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice, presiding
JOHN K. RECHUCHER, Associate Justice
FRED M. ISAACS, Associate Justice

Appeal from the Trial Division, the Honorable Lourdes F. Materne, Associate Justice,
presiding.

OPINION

PER CURIAM:

[¶ 1] This appeal involves a request to declare two lineages as lineages of a clan with the strength to claim the right of use and control over that clan’s

¹ We have altered the caption in this case because whether Obechou and Omchuong Lineages are legitimate lineages within Mochouang Clan of Ngeremlengui is at the center of the dispute. See *Etpison v. Obichang*, 2020 Palau 8 n.1 (providing guidance on altering captions).

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lands. The issue is whether the trial court erred in denying Appellants' request for a judgment declaring Obechou and Omchuong Lineages as being lineages within Mochouang Clan with strength equal to Ngeruangel Lineage.

[¶ 2] We have reviewed Appellants' arguments and, finding them devoid of merit, **AFFIRM** for the reasons set forth in the trial court's decision.

BACKGROUND

[¶ 3] This appeal stems from a trial court decision denying Appellants' request for a declaratory judgment establishing Obechou Lineage and Omchuong Lineage as sharing equal strength with Ngeruangel Lineage in Mochouang Clan of Ngeremlengui ("Clan"), essentially asserting that the three lineages have equal authority over Clan properties. Appellants seek to assert their right to use and control Clan land known as *Brekong*. Appellants and their predecessors have long claimed this right. Throughout this long-stemming litigation,² the court has determined that Ngeruangel Lineage is a strong Lineage of the Clan and that William Ngiraikelau is a strong member who holds the title *Renguul ra Mochouang*.

[¶ 4] The trial court determined Appellants failed to prove the Obechou and Omchuong Lineages are legitimate lineages within the Clan. This determination rendered moot the issues of whether lineage lands can be separate from clan lands and whether the Clan must seek approval from the Obechou and Omchuong Lineages to use or alienate Clan lands. Appellants, who are members of the Obechou and Omchuong Lineages, appeal this determination.

STANDARD OF REVIEW

[¶ 5] We review matters of law de novo, findings of fact for clear error, and exercises of discretion for abuse of that discretion. *Ngirmeriil et al. v. Terekieu Clan*, 2023 Palau 21 ¶ 12. Whether to entertain a claim for declaratory relief is

² See generally, J. and Order, *Asako Sasao, et. al. v. Ngiraikelau Beouch*, Civil Action No. 04-143 (Tr. Div. Aug. 29, 2007); Findings of Fact and Decision (on Remand), *Asako Sasao, et. al. v. Ngiraikelau Beouch*, Civil Action No. 04-143 (Tr. Div. Apr. 15, 2015); *Ngiraikelau v. Secharmidal*, Civil Action No. 17-306 (Tr. Div. Oct. 9, 2018); *Beouch v. Sasao*, 16 ROP 116 (2009); *Beouch v. Sasao*, 20 ROP 41 (2013); *Secharmidal v. Ngiraikelau*, 2019 Palau 35.

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committed to the trial court's sound discretion. *Chiang Shui-Lang v. Chiu Hung-Chao et al.*, 2023 Palau 13 ¶ 13 (citing *Filibert v. Ngirmang*, 8 ROP Intrm. 273, 276 (2001)). As such, we review decisions granting or denying declaratory relief for abuse of discretion. *Id.* (citing *Kiuluul v. Elilai Clan*, 2017 Palau 14 ¶ 6).

[¶ 6] The trial court abuses its discretion “when a relevant factor that should have been given significant weight is not considered, when an irrelevant or improper factor is considered and given significant weight, or when all proper and no improper factors are considered, but the court in weighing those factors commits a clear error of judgment.” *Eller v. Republic of Palau*, 10 ROP 122, 128-29 (2003).

DISCUSSION

[¶ 7] Appellants present three issues on appeal to support their request for declaratory relief. The first is whether Obechou and Omchuong Lineages are legitimate lineages within the Clan. The second is whether lineage-owned lands can be distinguished from clan-owned lands. The third and final issue is whether each of the Clan's lineages must consent to administration of Clan lands. Because the trial court did not abuse its discretion in finding insufficient evidence that Obechou and Omchuong are lineages, we reject Appellants' first claim. This proves dispositive of their second and third claims.

[¶ 8] A party seeking declaratory relief “must demonstrate the existence of a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant issuance of a declaratory judgment.” *Whipps v. Idesmang*, 2017 Palau 24 ¶ 7 (citing *Senate v. Nakamura*, 8 ROP Intrm. 190, 193 (2000)). The trial court is best suited “to hear the evidence and make credibility determinations, and status and membership in a clan are questions of fact.” *Terekieu Clan v. Ngirmeriil*, 2019 Palau 37 ¶ 1 (quoting *Imeong v. Yobech*, 17 ROP 210, 215 (2010)).

[¶ 9] Relying on findings from a prior Civil Action,³ the trial court took judicial notice that Ngeruangel Lineage is a strong lineage within the Clan and

³ See *Asako Sasao, et. al. v. Ngiraikelau Beouch*, Civil Action No. 04-143 (Tr. Div. Apr. 15, 2015).

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that William Ngiraikelau is a strong member of the Clan who holds the Clan’s chief title of *Renguul ra Mochouang*. The trial court found that Appellants failed to present sufficient evidence that the Clan consists of three lineages for two reasons. First, during the trial below, William Ngiraikelau denied the existence of Omchuong and Obechou Lineages within the Clan. The trial court found this testimony credible and persuasive, as it was entitled to do. Second, Peredo himself testified that Appellants are descended from two brothers. The trial court thus concluded that they are at best *ulechell* members of the Clan.⁴ “We generally defer to the credibility determinations of the trial court, and we will only overturn them in extraordinary cases.” *Palau Cmty. Coll. v. Ibai Lineage*, 10 ROP 143, 149 (2003). Appellants do not present such extraordinary circumstances. Instead, the Opening Brief misstates the trial court’s decision, merely repeats the arguments made below, and wholly fails to address the competing evidence, to the point that the appeal borders on frivolous. *See, e.g., Soaladaob v. Remeliik*, 17 ROP 283, 290 (2010).

[¶ 10] Therefore, the court did not abuse its discretion in determining that Appellants “failed to convince [it] of the legitimacy of their purported lineages.” *Obechou Lineage, et al. v. Ngeruangel Lineage of Mochouang Clan*, Civil Action 21-025, at 4-5 (Tr. Div. Feb. 16, 2023). Because Appellants’ failure to establish Obechou or Omchuong as Lineages within the Clan proves dispositive of their remaining arguments, we decline to address them.

CONCLUSION

[¶ 11] For the foregoing reasons, we **AFFIRM** the Trial Division’s decision.

⁴ Appellants misrepresent this finding on appeal as a determination that Obechou and Omchuong are lineages within the Clan, though not as strong as Ngeruangel Lineage. Although the court mentioned Appellants would “at best” be *ulechell* members, it ultimately found that Appellants failed to persuade the court of their Lineages’ legitimacy within the Clan. To the extent Appellants rely on their misrepresentation to support their claim that Obechou and Omchuong Lineages must consent to administration of Clan lands, such claim is barred by the doctrine of issue preclusion. *See id.* at 2 (“Any usage of Mochouang Clan properties must take place with the consent of *Renguul ra Mochouang*.”).