

Oiph v. Airai State Pub. Lands Auth., 14 ROP 10 (2006)
CHILDREN OF TECHOCHO OIPH,
Appellants,

v.

AIRAI STATE PUBLIC LANDS AUTHORITY,
Appellee.

CIVIL APPEAL NO. 05-013
LC/N 00-449, 00-450, 00-451, 00-452, & 00-454

Supreme Court, Appellate Division
Republic of Palau

Argued: November 14, 2006
Decided: November 20, 2006

Counsel for Appellant: William L. Ridpath

Counsel for Appellee: John K. Rechucher

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

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

MILLER, Justice:

Appellants appeal the Land Court's determination of the boundary of the land known as Belkulachutem in Oikull Hamlet of Airai State. For the reasons set forth below, we reverse the determination of the land boundary made by the Land Court and remand for further proceedings.

On November 14, 1988, Techocho Oiph filed a claim for public land and Airai State Public Lands Authority was the only adverse claimant for Belkulachutem. Techocho passed away in 1993, but his children continued to pursue his claim, relying upon an aerial photograph made in the 1970's after Techocho Oiph and his sons laid out panels marking the boundary of the land.

At the Land Court hearing in November 2001, Uro Ikesakes, Techocho's first cousin, testified that he went to Belkulachutem often when he was a child. He was never asked to describe the geographical L11 features of the boundaries, but he was asked to mark the approximate boundary on the worksheet with a red highlighter. After drawing the line, he stated that it was his best guess based on his knowledge of the land. John Oiph testified about the land's boundaries and also marked the land he believed to be Belkulachutem on the worksheet using a blue highlighter, but emphasized that he did not know exactly where the boundaries were

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on the map because the worksheet did not show topographic features. John marked a significantly larger area than Ikesakes.

Land Court Judge J. Uduch Senior found that Ikesakes's identification of the boundaries to be more credible than John's depiction because Ikesakes is older than John and had more of an opportunity to observe the farming and activities on the land with Oiph. The Land Court held that the children of Oiph owned Belkulachutem whose boundaries were "equivalent to the area depicted by Uro Ikesakes using a red/pink marker on Court Exhibit A." As a result, it directed the Bureau of Lands and Surveys to monument and survey an area that was the equivalent to the area of the land marked by Ikesakes on the worksheet.

The children of Oiph appeal the boundary established by the Land Court and claim that the Land Court's use of the line drawn by Ikesakes to create a boundary constitutes clear error. This Court reviews the Land Court's findings of fact under the clearly erroneous standard, under which the findings 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 we are left with a definite and firm conviction that a mistake has been made. *Tmiu Clan v. Hesus*, 12 ROP 156, 157 (2005). Conclusions of law are reviewed *de novo*. *Id.*

Neither party contends that the Land Court made any error in finding Ikesakes' knowledge of the land to be more credible than John's or in having Ikesakes select the boundary. However, Land Court Exhibit A, the map Ikesakes drew the line on, has no topographical features or geographical markers other than the coastline. Based on the inadequacies readily apparent in Land Court Exhibit A, we find that the rudimentary map is insufficient to set the boundaries of the claimed land. Due to the inadequacies of the map, the line drawn by Ikesakes is inexact despite his knowledge of the land. While the Land Court made no error in relying on Ikesakes' knowledge of the land, the Land Court clearly erred in relying upon the inexact line to set the boundary of land.

We reverse the boundary established by the Bureau of Lands and Surveys at the direction of the Land Court and remand for the limited purpose of establishing the boundary consistent with the testimony given by Ikesakes. The Land Court should order the Bureau of Lands and Surveys to take Ikesakes to the land and have him give an accurate description of the boundary. This is consistent with the statements by both parties at oral argument that neither had objected to proceeding in this fashion at the time of the hearing. For these reasons, we reverse the determination of the Land Court and remand the case for further proceedings consistent with this opinion.