

Singeo v. Secharmidal, 14 ROP 99 (2007)
ERIKO RUDIMCH SINGEO,
Appellant,

v.

OIPH SECHARMIDAL,
Appellee.

CIVIL APPEAL NO. 06-014
LC/H 04-258 and 04-259

Supreme Court, Appellate Division
Republic of Palau

Decided: April 17, 2007¹

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Counsel for Appellant: Carlos H. Salii

Counsel for Appellee: Raynold B. Oilouch

BEFORE: LARRY W. MILLER, Associate Justice; JANET HEALY WEEKS, Part-Time Associate Justice; J. UDUCH SENIOR, Associate Justice Pro Tem.

Appeal from the Land Court, the Honorable ROSE MARY SKEBONG, Associate Judge, presiding.

SENIOR, Justice:

Appellant Eriko Rudimch Singeo challenges the Land Court's determination awarding to Appellee Oiph Secharmidal ownership of the land known as *Erur*, comprised of Lot No. 26 in Ngetpong Hamlet of Ngardmau State. Having considered the arguments of the parties, we affirm the determination of the Land Court.

BACKGROUND

The Land Court found that *Erur* was given by Iwet Clan to a woman named Rsuuch as her individual property, either before or during the Japanese period. *Erur* was monumented and surveyed by the Japanese and included in the Ngardmau Municipality Map (the "Arumi Map"), listed as Lot 26 under the name Rsuuch. Secharmidal claimed *Erur* as the son of Rsuuch. Appellant Eriko Singeo claimed she acquired *Erur* from Waikasang Joseph Tellei who purchased it from Rsuuch.² The Land Court held that Rsuuch did not sell *Erur* to Waikasang and as Rsuuch

¹Upon reviewing the briefs and the record, the panel finds this case appropriate for submission without oral arguments pursuant to ROP R. App. P. 34(a).

²Itolochang Lineage was also a claimant, but did not appeal the Land Court's decision.

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is the deceased mother of Secharmidal, he is the owner of *Erur*. Singeo appeals, contending that the Land Court's decision is not supported by the evidence.

STANDARD OF REVIEW

This Court reviews the Land Court's findings of fact under the clearly erroneous standard, under which 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. *Tmiu Clan v. Hesus*, 12 ROP 156, 157 (2005). The Land Court's conclusions of law are reviewed *de novo*. *Id.*

DISCUSSION

This Court has heard a number of appeals challenging the sufficiency of the evidence in Land Court proceedings and appellants are extraordinarily unsuccessful. *See Children of Rengulbai v. Elilai Clan*, 11 ROP 129, 131 n.1 (2004). To prevail, an appellant must show that the Land Court's findings were clearly erroneous and that "the findings so lack evidentiary support in the record that no reasonable trier of fact could have reached the same conclusion." *Palau Pub. Lands Auth. v. Tab Lineage*, 11 ROP 161, 165 (2004). "It is not the appellate 1101 panel's duty to reweigh the evidence, test the credibility of witnesses, or draw inferences from the evidence." *See Ngeribongel v. Gulibert*, 8 ROP Intrm. 68, 70 (1999). Therefore, we must affirm the Land Court's determination as long as the Land Court's findings were "plausible." *Ongklungel v. Uchau*, 7 ROP Intrm. 192, 194 (1999).

Singeo first claims that the Land Court erred when it found that Secharmidal's mother was the "Rsuuch" listed on the Arumi Map. Singeo argues that a man also known as Ngirarsuuch is the Rsuuch on the Arumi map. Singeo relies on the testimony of Johnny Tudong that Secharmidal's mother Rsuuch is not the Rsuuch on the map. The testimony of Tudong, originally a claimant who later withdrew, is unclear about who he thinks is the person on the map and at one point he says he has no knowledge beyond the map. Ananias Ngiraiwet, holder of the title Arrengas of Iwet Clan, testified that Iwet Clan gave *Erur* to Oiph's mother Rsuuch. The Land Court found Ngiraiwet's testimony to be very credible and that it supported Secharmidal's claim that it is his mother's name on the map. "We do not test the credibility of witnesses, but rather take into account the fact that the Land Court heard and observed the witnesses and accepted one version of events rather than another." *Remengesau v. Sato*, 4 ROP Intrm. 230, 233 (1994); *see also Aribuk v. Rebluud*, 11 ROP 224 (2004). Where there are two permissible views of the evidence, the court's choice between them cannot be clearly erroneous. *Uchelkumer Clan v. Isechal*, 11 ROP 215, 219 (2004). It was therefore not clearly erroneous for the Land Court to credit Ngiraiwet's testimony rather than the conflicting testimony of Tudong. *Lakobong v. Tebei*, 8 ROP Intrm. 87, 89 (1999). The Land Court did not clearly err when it found that Secharmidal's mother was the "Rsuuch" listed on the Arumi Map.

Singeo also claims that the Land Court misinterpreted land transfer documents she submitted into evidence. Singeo submitted these documents in Japanese and only provided a rough and rushed translation. That translation seems to indicate that Waikasang sold a tract of

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land to Ngirarsuuch, although it is unclear if that tract of land was *Erur*. The Land Court found that the translation indicated that the land transferred in the documents was Lot 117 and not Lot 26. Singeo argues that the Land Court misinterpreted the “117” on the documents and that it actually means a street address or village number and not Lot 117. Singeo failed to provide a thorough and accurate translation of the documents and the Land Court reasonably interpreted them as best it could. *See Ucheliou Clan v. Alik*, 8 ROP Intrm. 312, 314 (2001). 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. *Tangelbad v. Siwal Clan*, 9 ROP 169, 172 (2002). The Land Court did not commit clear error when interpreting the documents.

CONCLUSION

As the Land Court did not commit clear error in its factual findings, it properly found that Secharmidal is the owner of *Erur*. The Land Court’s determination is affirmed.