

Salii v. Koror State Pub. Lands Auth., 15 ROP 86 (2008)

BILLING GLORIA G. SALII,
Appellant,

v.

KOROR STATE PUBLIC LANDS AUTHORITY,
Appellee.

CIVIL APPEAL NO. 07-039
Civil Action No. 02-384

Supreme Court, Appellate Division
Republic of Palau

Decided: April 14, 2008

Counsel for Appellant: Carlos Hiros Salii

Counsel for Appellee: Keith Peterson

BEFORE: ALEX R. MUNSON, Part-Time Associate Justice; KATHERINE A. MARAMAN, Part-Time Associate Justice; ROSE MARY SKEBONG, Associate Justice Pro Tem.

Appeal from the Trial Division, the Honorable ARTHUR NGIRAKLSONG, Chief Justice, presiding.

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PER CURIAM:

Appellant challenges the findings of the Trial Division concerning a parcel of land known as Cadastral Lot No. 050-B-02.¹ At trial Appellant claimed ownership of Cadastral Lot No. 050-B-02 on the theory that it was included in Tochi Daicho Lot 1063. Further, she asserted that the land is not submerged. The Trial Division found that 90% of the property is situated below the ordinary high water mark and therefore belongs to Koror State under the rule of Palauan law which holds that submerged and filled land is titled to the government. *See PPLA v. Salvador*, 8 ROP Intrm. 73, 75 (1999).

Appellant's arguments require this Court to reject the Trial Division's findings of fact. Factual findings are reviewed under a clearly erroneous standard. *Ngirutang v. Ngirutang*, 11 ROP 208, 210 (2004). The Trial Division based its findings on the only expert testimony offered at trial as well as the testimony of eyewitnesses, including other claimants to the land in question, and site view. Appellant attacks the report of the expert witness but offered no testimony-expert

¹ Appellant has also moved, after the fact, to re-schedule the oral argument held in this matter on April 1, 2008. Appellant's motion states that his absence at oral argument was due to confusion over the date of the argument and thus should be found to be "excusable neglect." The Court believes scheduling another argument will be unnecessary because this matter can appropriately be decided on the papers submitted by the parties pursuant to Rule 34 (a).

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or otherwise- to discredit or rebut. Put simply, Appellant presents nothing on appeal that would compel a rejection of the Trial Division's factual findings. The finding that the land is 90% submerged was not clear error.

We note that Appellant also attempts to save her claim to 050-B-02 from the submerged land doctrine by raising legal arguments in the nature of issue preclusion. Appellant points this Court to no prior decision involving the parties at bar which might have preclusive effect. At any rate, these arguments are misplaced because the location of Tochi Daicho 1063 is immaterial to the question of whether Cadastral Lot 050-B-02 is submerged land.

The judgment of the Trial Division is affirmed.