

Rudimch v. Sablan, 16 ROP 232 (2009)
ISIDORO RUDIMCH, represented by Dean Rudimch,
Appellant,

v.

AGNES SABLAN,
Appellee.

CIVIL APPEAL NO. 08-033
LC/M 00-512, LC/M 00-515 to LC/M 00-519

Supreme Court, Appellate Division
Republic of Palau

Decided: September 4, 2009¹

Counsel for Appellant: J. Uduch Sengebau Senior

Counsel for Appellee: J. Roman Bedor

BEFORE: LOURDES F. MATERNE, Associate Justice; ALEXANDRA F. FOSTER, Associate Justice; KATHERINE A. MARAMAN, Part Time Associate Justice.

Appeal from the Land Court, the Honorable RONALD RDECHOR, Associate Judge, presiding.

PER CURIAM:

This case is an appeal of a Land Court Determination of Ownership dated May 8, 2008, concerning the ownership of *Klsobel*, consisting of eight lots in Ngerkeai Hamlet of Aimeliik State. The Land Court determined that the Children of Meruk Rengulbai own Lot 01M001-004, the Children of Isidoro Rudimch own a 1,200 tsubo plot, the exact location to be determined later, and the Children of Skilang Ngirachemaurael own the rest of *Klsobel*.

Isidoro Rudimch (represented by Dean Rudimch) (“Appellant”) filed this appeal to contest the award made to Agnes Sablan (on behalf of the Children of Skilang) (“Appellee”). Appellant argues that he had purchased the entirety of *Klsobel* from Skilang, with the exception of the land awarded to the Children of Meruk, and that the Land Court erred in granting him only 1,200 tsubos.

Appellant presented evidence to the Land Court in the form of testimony and documents to establish that he purchased parts of *Klsobel* from Skilang, in addition to the 1,200 tsubo plot (known as Lot No. 349) ² which he was awarded. The Land Court refused to award Appellant

¹The panel finds this case appropriate for resolution without oral argument, pursuant to ROP R. App. P. 34(a).

²The lots Appellant seeks are referred to as Lot Nos. 345, 349 and 350. As the Land Court noted, these

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more than this plot because it determined that he only filed a claim for one 1,200 tsubo plot of land. As Appellant was not p.233 a proper claimant to the rest of *Klsobel*, the Land Court determined that it could not award him the other Lots or consider his evidence establishing ownership.

STANDARD OF REVIEW

This Court reviews the Land Court's findings of fact for clear error. *Ibelau Clan v. Ngiraked*, 13 ROP 3, 4 (2005). 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. *Palau Pub. Lands Auth. v. Ngiratrang*, 13 ROP 90, 93 (2006). The Land Court's conclusions of law are reviewed *de novo*. *Id.*

DISCUSSION

Appellant argues that the Land Court erred in several ways. Most importantly, Appellant argues that the Land Court erred in determining that he only claimed 1,200 tsubos. Appellant presented to the Land Court, and presents to this Court, evidence, both documentary and testimonial, that he purchased Lot Nos. 350 and 345, within *Klsobel*, as well as Lot No. 349. He strenuously argues the validity of this evidence and its impact on the credibility of Sablan.

The Land Court's determination, however, was not a judgment on the validity of Appellant's evidence, or a denial that he purchased those lands. It did not consider Appellant's ownership of the other lands because Appellant only filed a claim for the 1,200 tsubos of Lot 349, which he received. An examination of the record substantiates the Land Court's decision. The only relevant claim of land ownership filed by Appellant, found at Appellee's Appendix A, claims Lot No. 349, with the common name *Klsobel*, and the area of 1,200 tsubos, in Ngerkeai, Aimeliik. Appellant does not dispute that this is the only claim of land ownership filed, but argues that his participation in the monumentation of all of *Klsobel* somehow outweighs that document.

There is no justification to allow Appellant to pursue claims he did not file because he participated in the monumentation process. He clearly understood the proper process to file a claim and followed that process with regard to Lot 349, which he was ultimately awarded. There is also no ambiguity in the claim itself; it refers to only one lot, with an area of 1,200 tsubos. The claim filing requirements are absolute; no matter how persuasive his evidence, Appellant cannot be awarded Lot Nos. 345 and 350 without having filed a claim. *Mengesebuuch v. Ngeremlengui State Gov't*, 9 ROP 23, 25-26 (2001) ("the Land Court cannot award a certificate of title to those not claimants of the land").

Appellant also asserts that the Land Court erred in crediting Appellee's testimony denying that Lot Nos. 350 and 345 were sold to Appellant. Appellant emphasizes that Appellee signed documents certifying that Appellant purchased lots of land from Skilang but now denies

numbers do not correspond to official BLS worksheet numbers and are probably a remnant from an earlier system. They are used here only for ease of reference.

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such a sale. He argues that she should be estopped from denying the sale and that she is not credible. However, Appellee's testimony is irrelevant to the Land Court's refusal to award Appellant Lot Nos. 345 and 350. As noted p.234 above, Appellant was awarded the one piece of land for which he filed a valid claim. The Land Court's (proper) refusal to award Appellant Lot Nos. 345 and 350 was due entirely to Appellant's failure to file a claim for those lands, not to Appellee's testimony. Appellant is wrong in his assertion that the Land Court credited Appellee's testimony about the sale of Lot Nos. 345 and 350 and that such testimony had any relevance to the disposition of those lots.

Finally, Appellant argues that, since the Land Court determined that Pablo Skilang (Appellee's brother) had owned the land individually, it was error to award the land to Appellee, who did not claim ownership through him. Appellee testified before the Land Court that, although a court had previously awarded *Klsobel* to Pablo individually, the land actually belonged to the Children of Skilang, with Pablo as trustee.

This award was not erroneous, as the Land Court determined that Appellee did claim the land through Pablo. As the Land Court explained in the findings of fact, Pablo had received *Klsobel* through a court action, *Adelbai Sekii and Pablo Skilang v. Municipality of Aimeliik*, Civil Action No. 325. Determination of Ownership at 4. While Appellee testified that the land belonged to all the children of Skilang, not just Pablo, she conceded that, through Civil Action No. 325, Pablo came to own *Klsobel* individually. Accordingly, Appellee's claim was consistent with the Land Court's determinations.

CONCLUSION

Because Appellant has not demonstrated any error of fact or law in the Land Court's Determination of Ownership, the Determination of Ownership is **AFFIRMED** in its entirety.