

In re Estate of Delemel, 4 ROP Intrm. 148 (1994)
IN THE MATTER OF THE ESTATE OF NGIRATEMARIKEL DELEMEL

CIVIL APPEAL NO. 8-89
Civil Action No. 160-86 & 177-86

Supreme Court, Appellate Division
Republic of Palau

Opinion

Decided: February 25, 1994

Counsel for Appellant: Carlos H. Salii, Esq.

Counsel for Appellee: John K. Rechucher, Esq.

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; JEFFREY L. BEATTIE, Associate Justice; LARRY W. MILLER, Associate Justice.

NGIRAKLSONG, Chief Justice:

Appellant Mary Ann Delemel appeals the judgment of the Trial Division, which found that she was not adopted by Ngiratemarikel Delemel and consequently was not entitled to a share of his estate. For the reasons set forth below, we agree with Mary Ann's claim and accordingly reverse the judgment.

BACKGROUND

Ngiratemarikel Delemel died intestate on June 22, 1986. He was survived by Tocheriich, his wife of over forty years; Tocheriich's granddaughter Mary Ann Delemel; and a number of cousins, nieces, and nephews.

Ngiratemarikel married Tocheriich during the Japanese Administration of Palau. At the time of the marriage, Tocheriich had a twenty-year old daughter named Hiroe Tarimel, whom Ngiratemarikel adopted. In 1955 Hiroe gave birth to Mary Ann, who **¶149** was raised in the Delemel household and used Delemel as her surname. Except time spent away from Palau to further her education, Mary Ann lived in the Delemel household until Ngiratemarikel's death.

The Delemels had a family residence and business in Koror. Mary Ann performed family chores around the house and, beginning at the age of eight, worked in the family business, which included a bakery, fish market, chicken farm, general retail store, and residential construction. Inasmuch as she was a family member, Ngiratemarikel did not pay her for her work. In 1983 Ngiratemarikel and Tocheriich instructed Mary Ann to close the business due to the deteriorating condition of the building and the advanced age of the Delemels. They also instructed her to consolidate the proceeds into a certificate of deposit. Ngiratemarikel subsequently gave her other money to deposit into the account. She retained the bank book, and he relied on her to

conduct all of his bank transactions.

Mary Ann's biological father played no role in her life. She was twelve years old when she first realized that Ngiratemarikel was not her natural father, and she did not learn the name of her natural father until she read her birth certificate when applying for a passport. The record shows that Mary Ann considered Ngiratemarikel to be her father, that Ngiratemarikel considered Mary Ann to be his daughter, and that other people commonly referred to her as such. When she got married, her husband's family gave bus to Ngiratemarikel, and on numerous occasions she ¶150 acted like a daughter by providing food, money, and services to his relatives. Ngiratemarikel regarded her highly and had great trust in her. There was a very strong bond of love between them.

DISCUSSION

There is no question that Palauan customary adoption exists. *See Ngiraremiang v. Ngiramolau*, Civil Appeal No. 7-92, slip op. at 4 (Dec. 30, 1993) (Court finding the existence of Palauan customary marriage to be unquestionable). The sole issue before this Court is whether Mary Ann Delemel was customarily adopted by Ngiratemarikel Delemel and was thus entitled to share in his estate. We are convinced by the facts of this case that such an adoption took place.

In particular we note the following indicia of adoption: Mary Ann was born into and was raised in the Delemel household. She has always used the Delemel name. Ngiratemarikel and she considered each other as father and daughter, and they held themselves out to the world as such. Other people considered her to be his child. Mary Ann, in her role as daughter, contributed services to the family business and participated fully in the customs of his relatives by providing food and money. Their relationship was clearly one of love and trust. It was Mary Ann to whom he turned when it came to winding up the family business and converting the proceeds to a bank account.

Moreover, the record shows another very important sign of customary adoption that the trial court overlooked or gave short shrift. When Mary Ann got married, Ngiratemarikel received the ¶151 customary bus from her husband's family. Such an offering is customarily received by the father of the bride, or alternatively, if she has no father, by her maternal uncle or brother. In the instant case, there would be no reason for Ngiratemarikel to be offered and to accept the bus unless he were her father.

We do not hold that any one of the foregoing facts would suffice to establish a customary adoption. Rather, our review of the record as a whole, in light of the customary giving of the bus and the pattern of conduct of both Ngiratemarikel and Mary Ann, leads us to conclude that there was an adoption in this case. Given these particular circumstances, we hold that the Trial Division's conclusion that Ngiratemarikel had not adopted Mary Ann to be "clearly erroneous." 14 PNC § 604(b); ROP Civ. Pro. 52(a); *Riumd v. Tanaka*, 1 ROP Intrm. 597, 601 (1989).

We REVERSE the judgment and REMAND this case for further proceedings consistent with this opinion.