

Idechiil v. Uludong, 5 ROP Intrm. 15 (1994)
AMONARIA IDECHIIL, et al.,
Appellants,

v.

MOSES ULUDONG, et al.,
Appellees.

CIVIL APPEAL NO. 3-87
Civil Action No. 15-86

Supreme Court, Appellate Division
Republic of Palau

Opinion

Decided: October 25, 1994

Counsel for Appellants: Clara Kalscheur
David Kirschenheiter

Counsel for Appellees: Moses Uludong

Before: JEFFREY L. BEATTIE, Associate Justice; LARRY W. MILLER, Associate Justice;
PETER T. HOFFMAN, Associate Justice

MILLER, Justice:

Appellants' claim to a house and a stone platform located in Idelong Hamlet, Ngchesar State, was rejected by the trial court. Because the factual findings underlying the trial court's decision were not clearly erroneous, we affirm.

FACTS

Idechiil Tablong lived in the house in Idelong until his death in 1978. The appellants claimed the property as the heirs of Idechiil. The Ngermadeliang Clan also claimed the property because when Idechiil was still alive, he had sold a Clan house but did not turn over the proceeds of the sale. Both sides presented testimony about Idechiil's eldech duch, appellants contending that the house was given to them as his children, and appellees saying that the house was given to the Clan in recognition of Idechiil's financial obligation. The court found the latter testimony persuasive and awarded title to the house to the Clan. As to the platform under the house, however, the trial court placed ownership in both the Clan and Ngchesar State, because the platform was connected to the Ngchesar public dock.

¶16 DISCUSSION

Appellants claim the trial court erred in four factual findings, and that the cumulative effect of those errors requires reversal of the judgment. We review the trial court's findings of fact under a "clearly erroneous" standard. If the findings are supported by such relevant evidence that a reasonable trier of fact could have reached the same conclusion, they will not be set aside unless this Court is left with a definite and firm conviction that a mistake has been committed. *Umedib v. Smau*, Civ. App. No. 13-93, slip op. at 4 (Aug. 25, 1994).

The first claimed error, concerning the name of the Clan, was corrected in an errata sheet five days after the original opinion. The second claimed error concerns the finding that Idechiil, on his deathbed, confirmed that he wished the house to be turned over to the Clan. That this finding is based on the testimony of a single witness in response to a question from the trial court does not make it clearly erroneous.

The third claimed error asserts that a fact described in the trial court's opinion as "uncontroverted" was actually in dispute. According to the trial court's findings, Moses Mokoll made the final statement at Idechiil's eldecheduc, announcing that the house would be returned to the Clan. Appellants are correct that the latter part of this finding was the subject of vigorous dispute. The trial court may have intended to deem undisputed only the first part of this finding -- that Judge Mokoll made the final statement. Although one of appellants' witnesses appeared to contradict this finding, testifying that Kodep Brel made the final announcement, the trial court may have relied on the testimony of Mr. Brel himself, who appeared to concede that Judge Mokoll had the final word, though disagreeing as to what was said.

In any event, that this finding may not have been undisputed does not make it clearly erroneous. The trial court specifically noted that the evidence as to the eldecheduc was "conflicting".¹ The trial court had the opportunity to view the demeanor of the witnesses and to judge their credibility, and the court obviously credited the testimony of some witnesses and disbelieved others. We will not substitute our judgment for the trial court's assessment of the veracity of those witnesses.

¶17 Finally, appellants challenge the trial court's description of the platform as below the mean high water mark. In our view, this issue and a related challenge to the court's application of the law of fixtures is unavailing to the appellants. As we read the record, appellants' claim to the house and the platform rested on its contentions as to the outcome of Idechiil's eldecheduc. Having rejected those contentions, the trial court's findings and legal analysis as to the platform relate solely to the separate issue of whether Ngchesar State had any interest in it. Since neither the State nor

¹ Trial Decision at 4. A different issue might be presented if it appeared that the trial court had been unaware of, or failed even to consider, relevant evidence properly before the court.

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Ngermadeliang Clan has appealed that aspect of the trial court's judgment, we need not address these matters.

CONCLUSION

For the reasons stated above, we affirm.