Sebal v. Tengadik, 7 ROP Intrm. 149 (1999)
RIMAT SEBAL, Rep. Tebelak Clan,
Appellant,

v.

NARUO TENGADIK, Rep. Ongalek ra Tengadik,
Appellee.

CIVIL APPEAL NO. 98-06
D.O. No. H-89

Supreme Court, Appellate Division
Republic of Palau

ARGUED: January 15,1999
DECIDED: February 10, 1999

Counsel for Appellant: Mary Lourdes Materne

Counsel for Appellee: Johnson Toribiong

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

MILLER, Justice

This appeal concerns the ownership of land known as "Ngerach" located in Ngardmau State.[1] The LCHO conducted a hearing and issued a Determination of Ownership in 1995, which the Land Court served on the parties on January 9, 1998. Appellant complains that the LCHO made both factual and legal errors in its Determination of Ownership. Sebal argues that the LCHO erred in relying on the Tochi Daicho map, that the LCHO should have applied 39 PNC § 102(d), Palau's statutory law governing the disposition of the property of an ⊥150 intestate decedent, that the LCHO's determination of ownership is factually incorrect, and that the LCHO erred in applying the doctrine of adverse possession. Finding no error, we affirm.

The LCHO awarded the land to Appellee as administrator for Tengadik's children. The LCHO supported its determination of ownership with several findings of fact. First, the LCHO noted that the land was fisted as Tengadik's personal property in the Tochi Daicho map. The LCHO also found that Tengadik maintained the land during the Japanese time and that after his death his two children, Renguul and Ngirngemeyusch, continued to live on the land. In 1973, Appellant and other members of the Tebelak Clan signed a Deed of Transfer that quitclaimed the property in question to Ngirngemeyusch Tengadik, Tengadik's eldest son. In addition to these findings of fact, the LCHO held that Tengadik and his children, in any event, acquired the land through adverse possession.

[1] The land is designated as Cadastral Lot No. 05-H-180.

There is no Tochi Daicho in existence for Ngardmau State. There is, however, a Tochi Daicho map that lists Tengadik as the owner of the land at issue. Appellant argues that the LCHO should not have relied on the Tochi Daicho map because it was not authenticated and the parties were not given an opportunity to object to the use of the map. Appellant's argument fails for two reasons. First, a party has the duty to make objections to the admission of evidence to preserve the issue for appeal. *Kubarii v. Olkeriil* , 3 ROP Intrm. 39, 40 (1991). It is not the court's duty to ask parties if they object. Not only did Sebal fail to object to the admission of the map during the hearing, she testified as to its accuracy. In this situation, Sebal clearly waived any objection on appeal. Second, even if Appellant had objected to the use of the map, the LCHO did not err in relying on the Tochi Daicho map. The LCHO was entitled to rely on "any relevant evidence helpful in reaching a just determination." 35 PNC § 1110 (repealed); *Osarch v. Wasisang* , 7 ROP Intrm. 82, 83 (1998) (ROP rules of evidence do not apply in LCHO proceedings).

Appellant next argues that the LCHO erred in failing to apply the Palauan intestate succession statute. The LCHO found that a Deed of Transfer was executed in 1973 that transferred the land to Ngirngemeyusch Tengadik (Tengadik's eldest son and Appellee's father) as his personal property. The Deed was signed by the relatives of Tengadik and members of the Tebelak clan. Ngirngemeyusch died on October 21, 1994. Under 39 PNC §102(d), if an owner of land that was not purchased for value dies without a will, the land is disposed of in accordance with the desires of the immediate maternal or paternal lineage. Appellant argues that the LCHO was bound to apply 39 PNC § 102(d).

Appellant lacks standing to make this argument. Appellant brought her claim before the LCHO as the administrator for the Tebelak Clan. She did not appear before the LCHO as a representative of a lineage of Ngirngemeyusch, nor was any evidence presented that any such lineage ever met to discuss their wishes concerning the distribution of the land. Therefore, she is not the proper party to argue that the LCHO erred in failing to apply 39 PNC §102(d). *Tarkong v. Mesebeluu*, 7 ROP Intrm. 85, 87 n.7 (1998) ("A party who files a claim for ownership of land with the courts on one basis cannot prosecute her appeal on another").

⊥151 Appellant argues that the LCHO made several findings of fact that were clearly erroneous.[2] However, where there are two permissible views of the evidence, the fact finder's choice cannot be clearly erroneous. *Kotaro v. ROP*, 7 ROP Intrm. 57, 61 (1998). Appellant first argues that there is no evidence to support the LCHO's determination that the map listed Tengadik as an individual owner as opposed to fisting him as trustee for the Tebelak clan. However, in addition to the Tochi Daicho map that listed Tengadik as the owner, Appellee also testified that Tengadik owned the land as his personal property. These two pieces of evidence are sufficient to support the LCHO's finding that Tengadik owned the land as his personal property.

[2] Both the parties and this Court agree that this Court should apply the "clearly erroneous" standard in this case. This Court reviews factual findings of the Land Court under the "clearly erroneous" standard. *Tesei v. Belechal*, Civ. Appeal No. 14-97 (July 30, 1998). Although it was the LCHO that made the factual findings in this case, this is a direct appeal from the Land Court and the reasoning underlying *Tesei* is equally applicable here.

Appellant also argues that there is no evidence to support the validity of the deed that quitclaimed the property to Ngirngemeyusch Tengadik. At the hearing, Appellee produced a deed of transfer that was signed in 1973 by the relatives of Tengadik and members of the Tebelak Clan. The deed quitclaims all of the land at issue to Ngirngemeyusch Tengadik, Appellee's father. Appellant admits that she signed the document but argues that the deed is not valid because at the time she signed it, she did not understand that the document transferred ownership to the land. She testified that she understood that the document merely allowed her cousin to use the land as collateral for a loan. Although Appellant's testimony regarding her understanding of the deed was not challenged by Appellee, the LCHO was not obligated to believe Appellant's testimony. The LCHO is not bound to accept testimony by an interested party merely because it is not contradicted. *Elewel v. Oiterong*, 6 ROP Intrm. 229, 232 (1997).

Finally, Appellant Sebal also argues that the LCHO erred in applying the doctrine of adverse possession. Sebal's point is well taken. The existence of a familial relationship between claimants to the land defeats the requirement that the possession be hostile. *Osarch v. Kual* , 2 ROP Intrm. 90, 92 (1990). In this case, since Appellee is a member of the clan for whom Appellant claims the land, the doctrine of adverse possession should not apply. The LCHO's determination of ownership, however, does not solely rest on this doctrine. As noted above, the LCHO also relied on the Tochi Daicho map and the fact that Tengadik maintained the land during the Japanese time. Further, the LCHO relied on the deed of transfer and the fact that Tengadik's children lived on the land. [3] The LCHO's additional -- albeit erroneous -- reliance on adverse possession was not necessary to its result, and was therefore harmless. *Elbelau v. Beouch*, 3 ROP Intrm. 328, 330 n.1 (1993) (LCHO's Determination of Ownership will be upheld, even if it relied upon an legally incorrect ground, so long as the result is correct).

⊥152 The Determination of Ownership awarding the land to Naruo Tengadik as representative of the children of Tengadik is accordingly AFFIRMED.

[3] Even though the doctrine of adverse possession does not apply, evidence that a person possessed land for a long period of time is relevant to the issue of ownership. *Elewel v. Oiterong*, 6 ROP Intrm. 229, 233 (1997).