

IN THE  
SUPREME COURT OF THE REPUBLIC OF PALAU  
APPELLATE DIVISION

FILED

2013 JUN 26 11:02 AM

SUPREME COURT  
OF THE  
REPUBLIC OF PALAU

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KOROR STATE PUBLIC LANDS :  
AUTHORITY, :  
 :  
Appellant, :  
 :  
v. :  
 :  
BELECHEL NGIRNGEBEDANGEL and :  
TECHEBOET LINEAGE, :  
 :  
Appellees. :  
 :  
-----X

CIVIL APPEAL NO. 12-042  
(LC/B 01-0527)  
(LC/B 01-0528)  
(LC/B 01-0529)  
(LC/B 01-0530)

**OPINION**

Decided: June 26<sup>th</sup>, 2013

Counsel for Koror State Public Lands Authority: J. Uduch Sengebau Senior  
Counsel for Belechel Ngirngebedangel: Pro Se  
Counsel for Techeboet Lineage: Salvador Remoket

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; KATHLEEN M. SALII, Associate Justice; and R. ASHBY PATE, Associate Justice.

Appeal from the Land Court, the Honorable SALVADOR INGEREKLII, Associate Judge, presiding.

PER CURIAM:

This is an appeal of a Land Court Determination awarding ownership of six parcels of land to Appellee Belechel Ngirngebedangel and ownership of one parcel of land to Appellee Techeboet Lineage. For the following reasons, the determination of the Land Court is **AFFIRMED**.

## BACKGROUND

On October 31, 2008, the Land Court issued Determinations of Ownership regarding twenty-five parcels of land. Of relevance here, the Land Court awarded six lots to Ngirngebedangel<sup>1</sup> (the Ngirngebedangel Lots) and one lot to Techeboet Lineage<sup>2</sup> (the Lineage Lot). *Id.* Appellant KSPLA claimed the foregoing seven lots.

The Land Court awarded the Ngirngebedangel Lots to Ngirngebedangel on the ground that KSPLA's claims were barred twenty-year statute of limitations on property actions. The Land Court granted the Lineage Lot to Techeboet Lineage because Bilung Gloria Salii, one of the Lineage's representatives, was the only claimant with a familial connection to Kisaol, a deceased ancestor of Salii whom the Land Court determined to be the true owner of the claimed parcel. KSPLA appealed these determinations, arguing, among other things, that it had acted as a lessor of the disputed lands for more than twenty years and had, therefore, acquired the properties by adverse possession.

On appeal, we rejected KSPLA's adverse possession claims on the ground that it could not show actual or hostile possession of the claimed properties. *KSPLA v. Idong Lineage*, 17 ROP 82, 84 (2010). In doing so, we concluded that the evidence relied upon by KSPLA (lease documents and testimony that certain claimants were aware of the leases) was insufficient to show hostile possession. *Id.* Although we rejected KSPLA's

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<sup>1</sup> Lot Nos. 181-034H, 181-191A, 181-191B, 181-191C, 181-191E, and 181-191P.

<sup>2</sup> Lot No. 181-191H.

adverse possession claims, we also held that the Land Court erred in awarding the Ngirngebedangel Lots based on adverse possession. *Id.* at 85–86. As to the Lineage Lot, we held that the Land Court erred in awarding the land to the Lineage on the basis of Bilung Gloria Salii’s relationship to Kisaol because the Lineage’s claim “was not made through a relationship with Kisaol,” but on the ground that “Kisaol lived on the land with permission of Techeboet Lineage.” *KSPLA I*, at 87–88. Having found that the Land Court erred in its determinations, we remanded the matter for further proceedings. *Id.* at 88.

On remand, the Land Court took testimony from Salii and Ngirngebedangel. Salii testified in Palauan that, if the Lineage Lot was individual property of Kisaol prior to moving to Japan, Kisaol “a ulterkokl a kloklel”<sup>3</sup> to three women of Idid Clan.<sup>4</sup> Salii further clarified that she was claiming the Lineage Lot based on this transfer. Ngirngebedangel testified that he purchased his claimed properties from Iked Etipison. *KSPLA* did not present additional evidence.

On September 21, 2012, the Land Court issued a second set of Determinations. In the Second Determinations, the Land Court found that Kisaol “a ulterkokl a kloklel” to three members of Idid Clan and, in doing so, “conveyed ownership of her properties . . . .” The Land Court further found that Ngirngebedangel purchased the Ngirngebedangel Lots

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<sup>3</sup> This translates roughly to “entrusted her property.”

<sup>4</sup> Techeboet is a lineage of Idid Clan.

from Iked Etpison in 1976, and that, “[s]ince purchasing the[] lots [he] has maintained completed control of, and operated his business upon, the land.” Accordingly, the Land Court once again awarded the Ngirngebedangel Lots to Ngirngebedangel and the Lineage Lots to the Lineage.

KSPLA appealed.

### STANDARD OF REVIEW

We review the Land Court’s legal conclusions *de novo* and its factual findings for clear error. *Kotaro v. Ngotel*, 16 ROP 120, 121–22 (2009).

### DISCUSSION

Appellant contends that the Land Court erred by awarding the Ngirngebedangel Lots to Ngirngebedangel because “KSPLA owns the lands . . . under the theory of adverse possession.” Appellant further submits that the Land Court erred in awarding the Lineage Lots because “Appellee Bilung Gloria Salii failed to establish that Kisaol own[ed] the land.”

#### I. Adverse Possession of the Ngirngebedangel Lots

“To acquire title by adverse possession, the claimant must show that the possession is actual, continuous, open, visible, notorious, hostile or adverse, and under a claim of title or right for twenty years.” *Petrus v. Suzuki*, Civ. App. 10-044, slip op. at 4 (Nov. 23, 2011). Possession also must be exclusive. *Id.* at 8–9; *see also Arbedul v. Rengelekel A Kloulubak*, 8 ROP Intrm. 97, 98 (1999) (plaintiff failed to show adverse possession

because he failed to show exclusive possession). The burden of proof as to each element rests on the party asserting adverse possession. *Id.*

In *KSPLA I* we held unequivocally that KSPLA could not establish adverse possession merely by pointing to the existence of leases made by KSPLA and by establishing knowledge of the leases by the adverse claimant. *KSPLA I*, at 84–85. Inexplicably, on appeal, KSPLA now contends that it proved adverse possession by relying on various lease documents and on testimony that Ngirngebedangel was aware of at least one of the leases. As we already have held, this evidence remains insufficient under the circumstances to establish adverse possession.

## **II. Kisaol’s Ownership and Conveyance of the Lineage Lots**

As we recently observed,

litigants in a Land Court proceeding may advance two types of claims: (1) a superior ownership claim under which the litigant pursues ownership based on the strength of his title; and (2) a return of public lands claim under which a private party “admits that title to the land is held by a public entity, but seeks its return.” *See Koror State Pub. Lands Auth. v. Wong*, Civ. App. 12-006, slip op. at 4–5 (Oct. 31, 2012) (emphasis omitted). Where . . . parties assert competing claims of superior ownership, the Land Court must award ownership to the claimant advancing the strongest claim. *See Ngirumerang v. Tmakeung*, 8 ROP Intrm. 230, 231 (2000) (“The Land Court can, and must, choose among the claimants who appear before it and cannot choose someone who did not, even though his or her claim might be theoretically more sound.”).

*Ngirametuker v. Oikull Village*, Civ. App. 12-030, slip op. at 6–7 (May 21, 2013).

Here, the Lineage advanced a superior title claim. Accordingly, the Land Court was required to award ownership to the claimant advancing the strongest claim. *Id.*

On remand, the Land Court found that Kisaol owned the land and that, prior to her death, she conveyed ownership to three members of Idid Clan. In reaching the latter conclusion, the Land Court rejected KSPLA's contention that "a ulterkokl a kloklel," the phrase Salii used to describe the transfer, was not evidence that ownership was transferred. Specifically, the Land Court found that KSPLA's argument was belied by the fact that, following the transfer, but before Kisaol's death, a transferee disposed of one of Kisaol's former properties. Based on these conclusions, the Land Court awarded the land to the Lineage because the Lineage claimants "through their position as heads of Idid [C]lan and its Lineages, and people who are closely related to Kisaol and have the authority to dispose of her properties have decided that this land would be registered as property of Techebeot Lineage of Idid [C]lan." Now, KSPLA contends that "Bilung provided absolutely no evidence as to how Kisaol came to own the land or how Kisaol transferred ownership of her land to Idid Clan. Bilung used the word 'ulterkokl' which does not necessarily mean conveyance or transfer of land ownership."

#### **A. The Purported Conveyance**

Whether Kisaol transferred ownership of her land prior to moving to Japan is a question of fact. *See Gold'n Plump Poultry, Inc. v. Simmons Engineering Co.*, 805 F.2d 1312, 1318 (8th Cir. 1986) ("Whether or not a sale occurred is a question of fact for the

trial court.”). Accordingly, we review the Land Court’s determination in this regard for clear error. *Kikuo v. Ucheliou Clan*, 15 ROP 69, 73 (2008).

The uncontradicted testimony was that, prior to leaving for Japan, Kisaol “entrusted”<sup>5</sup> her lands to three women of Idid Clan. Evidence showed that after Kisaol moved to Japan, but before her death, one of the three women sold one of the entrusted properties. KSPLA does not cite to any evidence which would tend to show that ownership of Kisaol’s lands was *not* transferred prior to her death. Absent such evidence, we cannot conclude that the Land Court committed clear error when it found that Kisaol conveyed ownership of her lands to the women of Idid Clan. *See Kikuo*, 15 ROP at 73–74.

#### **B. Kisaol’s Ownership**

KSPLA further contends that the Land Court erred by granting ownership to the Lineage on the basis of Kisaol’s ownership because there was no evidence regarding how Kisaol acquired ownership and because “the Land Court never made a specific finding of

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<sup>5</sup> KSPLA makes much of the fact that Salii testified that Kisaol “a ulterkokl a kloklel” and that no evidence was presented regarding this phrase’s customary meaning. However, there is no indication that Salii, who was testifying in Palauan, claimed the transfer was customary.

fact that Kisaol owns the land . . . .” As to the latter point, we assume KSPLA intended to challenge the lack of a finding that Kisaol *owned* the land.<sup>6</sup>

A Determination of Ownership issued by the Land Court must be “based on findings of fact.” L.C. Reg. 20. While this rule requires specific findings, “[i]f, from the facts found, other facts may be inferred that will support the judgment, the court of appeals will deem such inferences to have been drawn by the [trial] court.” 9C Fed. Prac. & Proc. Civ. § 2579 n. 17 (3d ed.). Here, the Land Court found that “Kisaol left her properties, including the lot before the Court, to [the Idid women].” We believe that the foregoing language constitutes an explicit finding that Kisaol owned the Lineage Lot. Furthermore, even if the finding was not explicit, Kisaol’s ownership of the property may be inferred from the Land Court’s conclusion. Accordingly, we reject KSPLA’s contention that the Land Court failed to find that Kisaol owned the Lineage Lot.

Finally, an uninterrupted chain of title is unnecessary to prove ownership of property, so long as the ownership is supported by other adequate evidence. *See Omenged v. UMDA*, 8 ROP Intrm. 232, 234 (2000) (affirming quiet title judgment based on reputation evidence where claimant failed to show chain of title). The Land Court found that Kisaol owned the property based on evidence that she maintained uninterrupted use and possession of the land and that she raised ducks on the property. Although Salii

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<sup>6</sup> To the extent KSPLA intends to challenge the lack of a finding that Kisaol *owns* the land, we see no error insofar as the Land Court found that Kisaol conveyed ownership of her lands.



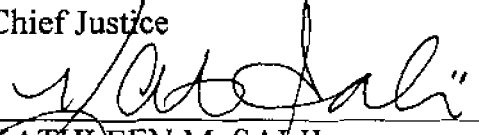
testified originally that Kisaol did not own the land, we cannot say the Land Court's conclusion to the contrary was clear error. *See Mesubed v. Iramek*, 7 ROP Intrm. 137, 138 (1999) ("While mere occupation of land is not determinative of ownership, this Court has previously relied on evidence regarding *the use and possession* of land in a dispute between family members over the ownership of land." (emphasis added)). We thus affirm the Land Court's factual determination that Kisaol owned the Lineage Lot.


### CONCLUSION

For the foregoing reasons, the determination of the Land Court is **AFFIRMED**.

SO ORDERED, this 26 day of June, 2013.

  
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ARTHUR NGIRAKLSONG  
Chief Justice

  
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KATHLEEN M. SALI  
Associate Justice

  
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R. ASHBY PATE  
Associate Justice