

FILED 

**IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION**

SUPREME COURT
OF
PALAU

SMENGESONG LINEAGE,
Appellant,
v.
RAMON RECHEBEI,
Appellee.

THE CHILDREN OF TERIONG BEOUCH,
Appellants,
v.
NGERCHEMUUL CLAN,
Appellee.

SMENGESONG LINEAGE and DIRRAECHETEI ITO,
Appellants,
v.
DIRRAKLANG NGIRAMETUKER,
Appellee.

SMENGESONG LINEAGE and KESOL CLAN,
Appellants,
v.
YAOCH IECHAD,
Appellee.

Cite as: 2017 Palau 30

Civil Appeal No. 15-030

Appeal from LC/N 11-0110 to 11-0114, 11-0122, 11-0123, 11-0126,
11-0128 to 11-0132, and 11-0150

Decided: August 21, 2017

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BEFORE: ARTHUR NGIRAKLSONG, Chief Justice
R. BARRIE MICHELSEN, Associate Justice
DENNIS K. YAMASE, Associate Justice

Appeal from the Land Court, the Honorable Rose Mary Skebong, Associate Judge, presiding.

OPINION

PER CURIAM:

[¶ 1] This appeal is from a Land Court decision resolving ownership of private land in Airai State. For the reasons below, we affirm the determinations of the Land Court.

BACKGROUND

[¶ 2] The lots at issue are located in the Ked area of Airai State, sometimes referred to generally as *Ngerullak* and *Ngediull*. Title registration commenced in March 2014. The Bureau of Lands and Survey (BLS) prepared a worksheet map depicting the claims. At an initial status conference, various claimants expressed concern about the BLS worksheet and had difficulty identifying their claimed lots. The Land Court ordered both the current and former Land Registration Officers (LROs) “to meet with the claimants and go over the claims and identify them on the worksheet.” The court also directed the LROs and claimants “to go back to the site and ascertain the location of their claims before proceeding to hearing.” Due to attorney scheduling conflicts, the hearing was not held until more than a year later. The hearing encompassed roughly fifteen days in the Land Court, including oral and written closing arguments. The court issued its determinations in October 2015.

[¶ 3] Various claimants appealed the Land Court’s determinations. These appeals can be divided into four groups. First, Smengesong Lineage appeals

the award of Lots 18, 19, and 22¹ to Ramon Rechebei. Second, the Children of Teriong Beouch appeal the award of Lots 26 and 27² to Ngerchemuul Clan. Third, Smengesong Lineage and Dirraechetei Ito both appeal the award of Lot 24³ to Dirraklang Ngirametuker. Fourth, Smengesong Lineage and Kesol Clan both appeal the award of Lot 25⁴ to Yaoch Iechad.

[¶ 4] Because there is little common factual background across these groups of appeals, the Court will summarize the relevant factual background below in discussing each group.

STANDARD OF REVIEW

[¶ 5] We review the Land Court's conclusions of law de novo and its factual findings for clear error. *Eklbai Clan v. KSPLA*, 22 ROP 139, 141 (2015). "Where there are several plausible interpretations of the evidence, the Land Court's choice between them shall be affirmed even if this Court might have arrived at a different result." *Id.* Credibility determinations are generally the province of the trial court. *See id.* at 145. "A party seeking to set aside a credibility determination must establish extraordinary circumstances for doing so." *Id.* (citation omitted).

DISCUSSION

I. Lots 18, 19, and 22 (*Smengesong Lineage v. Ramon Rechebei*)

A. Claims and Decision Below

[¶ 6] Ramon Rechebei (Ramon) claimed Lots 18, 19, and 22 were called *Ultouch* and had belonged to his adoptive father, Rechebei. Other witnesses also testified that the land had belonged to Rechebei. Around 1980, Rechebei took Ramon to the land and showed him the boundaries, which included natural landmarks as well as monuments. In 1982, Rechebei executed a

¹ Cadastral Lot Nos. 04N002-018, -019, -022 on BLS Worksheet No. 2004 N 002.

² Cadastral Lot Nos. 04N002-026, -027 on BLS Worksheet No. 2004 N 002.

³ Cadastral Lot No. 04N002-024 on BLS Worksheet No. 2004 N 002.

⁴ Cadastral Lot No. 04N002-025 on BLS Worksheet No. 2004 N 002.

witnessed deed purporting to convey these lands to Ramon. Since that time, Ramon has given permission to several individuals to build houses on the land. In 2002, Ramon filed a civil suit against two individuals who were using parts of the land without his permission.

[¶ 7] Smengesong Lineage claimed these lots as part of a larger land claim in the area. The lineage contended that Rechebei was a member of the lineage who bore the chief title *Ilabsis* but did not own these lots individually. The principal witness for the lineage was Martha Iechad (Martha), who also referred to at least some of these lots as *Ultouch*. She testified that her maternal ancestor, Ebulmau, had married a chief of Ngerngas Clan who controlled *Ultouch* and that the land was later transferred to Ebulmau as *elbechhieel*. Martha testified that various members of Smengesong Lineage have used the land and that she, in her role as a school teacher, had at times taken students there to make gardens. Other witnesses testified that members of the lineage had used the land and that Rechebei had not owned *Ultouch* as his own.

[¶ 8] The Land Court found that “the weight of the credible evidence shows that Rechebei treated the land as his individual property and not lineage property, and that he conveyed his interest to his son, Ramon.” The court found that evidence of Rechebei’s ownership began with a 1975 court judgment that referred to “property owned by Rechebei.” Although Rechebei did not live on this land, the Land Court credited testimony that his son cultivated a farm there and that the land was “generally referred to as Rechebei’s property.” The court found that while the 1982 deed from Rechebei to Ramon did not describe the transferred property in terms of lots, the record of a 1976 monumentation coupled with Ramon’s testimony that his father pointed out the boundaries “prove the location of the property” transferred.

[¶ 9] As to the lineage’s contention that the land had come to the lineage as *elbechhieel* a Ebulmau, the Land Court noted that even if that had been true, there was an “absence of any demonstrable acts of ownership” along with “inconsistencies” between subsequent land claims by various lineage members. As proof of ownership, lineage witnesses had testified that lineage members gave the Japanese permission to build *tarikera*b on the land near

Ramon's house and later gave permission to others to take the same *tarikerab* for scrap metal; however, the court credited "ample testimony" that Ramon's house is located on land outside Lots 18, 19, and 22, and that even if the lineage's testimony was correct, it did not substantiate control of ownership of these lots. The court did credit Martha's testimony that she had taken her students to gardens in the area, but found the activity was limited in duration and "there was no evidence that this activity continued for any length of time to substantially demonstrate ownership."

[¶ 10] The Land Court characterized a 1988 land claim filed by Edluchel Eungel as "perhaps the strongest evidence supporting" the lineage's claim to ownership. Edluchel had succeeded Rechebei to bear the title *Ilabsis* and "was presumably knowledgeable about lineage properties." In 1988, Edluchel claimed the land as the lineage's, using the same description of the boundaries as described in Rechebei's 1982 deed of transfer to Ramon. Importantly, however, Edluchel had signed that same 1982 deed as a witness; the court observed that the lineage had not explained or discussed this contradiction, and found that it "diminishes the credibility" of Edluchel's later claim on behalf of the lineage. The Land Court also noted "another inconsistency" in the claims filed by Martha. The court observed that earlier filings claimed *Ultouch* for the lineage, but the most recent stated that "*Ultouch mesei*" was listed under "Kitang Bechab's name, and claimed the land and *mesei* as individual properties."

[¶ 11] The Land Court ultimately concluded that the weight of the evidence showed that Lots 18, 19 and 22, were the individual property of Rechebei and not lineage land. The court found that Rechebei had conveyed the land to his son Ramon and accordingly awarded the lots to him.

B. Arguments on Appeal

[¶ 12] *Smengesong Lineage* first argues that the 1982 deed from Rechebei to Ramon was ineffective. In *Salii v. Omrekongel Clan*, the Court explained that "in order for a deed to operate as a legal conveyance of title, the land intended to be conveyed by the grantor must be described with sufficient definiteness and certainty to locate and distinguish it from other lands of the same kind. If the land intended to be conveyed cannot be identified from the deed, with the aid of extrinsic evidence, the deed is

inoperative.” 3 ROP Intrm. 212, 214 (1992). The Court affirmed these general principals in *Uchelkumer Clan v. Soweï Clan*, further explaining that “to effectively convey title to land, a grantor must sufficiently declare his intention to pass title.” 15 ROP 11, 14-15 (2008). *Smengesong Lineage* argues that “[Rechebei’s] deed is inoperative to transfer the title,” principally because of asserted ambiguity about the northern boundary of the land.

[¶ 13] The 1982 deed clearly evidences an “intention to pass title.” Unlike the document in *Uchelkumer Clan*, which “contain[ed] no reference anywhere of land being conveyed or title passing,” 15 ROP at 14, the deed here is unequivocal. It is titled “Deed of Transfer,” and states that by it Rechebei did “transfer . . . unto Ramon Rechebei, [my] heir and assign forever, the exclusive right and ownership of said property.” The deed was signed, witnessed, and recorded. The lineage’s argument thus turns on whether the property can be “identified from the deed, with the aid of extrinsic evidence.” *Salii*, 3 ROP Intrm. at 214.

[¶ 14] The lineage argues that the deed, with extrinsic evidence, “fails to describe the northern boundary of the lands claimed by Ramon.” But the Land Court’s decision explicitly referred to a 1976 monumentation record that clearly depicts two Japanese monuments at the northern corners of land labeled “Rechebei.” The court found that this monumentation record, along with Ramon’s credible testimony that his father had shown him definite markers at the boundaries of the land, were sufficient extrinsic evidence to enable the court to identify the property transferred as the land encompassed by Lots 18, 19, & 22. The lineage does not meaningfully address the finding that the 1976 monuments define the northern boundary of Rechebei’s lands; as such, there is no basis for us to conclude that that finding was clear error. Given the Land Court’s undisturbed finding about the northern boundary, we conclude that the deeded property can be “identified from the deed, with the aid of extrinsic evidence,” *Salii*, 3 ROP Intrm. at 214.

[¶ 15] The lineage also argues that the record evidence can support only a finding that the land belongs to *Smengesong Lineage*. We disagree. There is record evidence, including prior monumentation and claim records, which supports a finding that the lots were the individual property of Rechebei before he deeded them to Ramon. *See, e.g., Eklbai Clan*. 22 ROP at 141

(“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.”) These record facts, coupled with the credible testimony of Ramon, provide a sufficient evidentiary basis for a finding that, as between Ramon and the lineage, Ramon had the strongest claim to title. *Cf., e.g., id.* at 146. Accordingly, we affirm the determinations that Ramon owns Lots 18, 19, and 22.

II. Lots 26 and 27 (The Children of Teriong Beouch v. Ngerchemuul Clan)

A. Claims and Decision Below

[¶ 16] The Children of Teriong Beouch⁵ claimed Lots 26 and 27 as part of the land known as *Ididch*. The claim flows from a man named Kadoi. According to the Children, Kadoi gave these lots to his adopted son Beouch, who in turn gave the lots to his son Teriong. Beouch lived at *Ididch* during the Japanese times and died in 1943. The Children claimed that Beouch was buried at the *odesongel* at *Ididch*. Teriong and his wife had a house and lived at *Ididch* as early as World War II. Witnesses testified that Teriong and his wife cultivated the lots and allowed various relatives to live on parts of the lots over the years. A 1997 land claim filed by Teriong stated that Beouch was the owner of the lots and that a member of Ngerchemuul Clan, Tkoel, had confirmed after Beouch’s death that his lands would be retained by Beouch’s children.

[¶ 17] Representatives of Ngerchemuul Clan testified that the lots were near the clan’s *kerdellir* (landing site) and that there was an *odesongel* there where their ancestor, Llut, is buried. The clan denied that Kadoi ever gave *Ididch* to Beouch. Clan witnesses testified that Teriong’s presence on the land was due to the fact that Itei had given permission for Teriong to build his house on the land. Another witness testified that when the chief of Ngerchemuul learned that Itei had allowed Teriong to build his house, that

⁵ These claimants have variously described themselves as “Ididch Lineage,” “Teriong Beouch,” and/or the “Children of Beouch.” The Land Court principally referred to the claim as Teriong’s.

the chief, Rebechall Inabo, went to Teriong and warned him not to sell or give away any portion of the land.

[¶ 18] The Land Court identified the dispositive issue as whether Kadoi gave the land to Beouch as his individual property, or whether the land remained clan land on which the clan permitted Beouch's son Teriong to live. The Land Court noted that Teriong's long occupation of *Ididch* "seem to weigh in [his] favor." However, the fact of Teriong's occupation would also be consistent with the clan's position that the lots belonged to it and that it had merely given Teriong permission to use them.

[¶ 19] The court ultimately found that "the record contains strong evidence that belie Teriong's claim that Kadoi gave the property to Beouch." The Children had introduced Teriong's 1997 land claim as their Exhibit 1. However, the court noted that the record included an earlier claim for *Ididch* filed by Teriong in 1988. "On his earlier claim, Teriong states that he was 'the son of the person who was trustee for the land, namely Beouch' and that he claimed the land for *Ididch* Lineage, with himself as trustee." The court found that "*Ididch* Lineage" was a lineage within Ngerchemuul Clan. The court found Teriong's earlier statements "more credible that the statements made on his later claim."

[¶ 20] The court also pointed to a June 1989 Land Claims Hearing Office (LCHO) document in File No. 07-19-89. The document, signed by three hearing officers, included a "Title Determination" for land known as *Sebuu*. The dispute was between Teriong's brother, Ngirkiklang, and Ngerchemuul Clan; like Teriong with *Ididch*, Ngirkiklang claimed that Kadoi gave *Sebuu* to Beouch, who in turn gave it to him. The Land Court here found the result of the 1989 proceeding irrelevant, but noted that the LCHO's summary of testimony in the case undermined Teriong's claim. In particular, the Land Court observed that the LCHO summarized Kadoi's niece, Isebong, testifying that "Beouch obtained no property from Ngerchemuul Clan."

[¶ 21] The Land Court ultimately found that Isebong's statement and Teriong's 1988 claim form outweighed the mere fact of Teriong's residence as evidence that Teriong's presence on the land was the product of clan permission and not by right of ownership. The court accordingly awarded the lots to Ngerchemuul Clan.

B. Arguments on Appeal

[¶ 22] The Children first challenge the use of Isebong’s statement from the 1989 LCHO proceeding. They argue that the trial court “erred in basing its determination on the incidental testimony of Isebong, now deceased, in an unrelated case for different land.” As an initial matter, the court below did not “base” its determination on the record of Isebong’s testimony in the LCHO proceeding; the court found it to be probative, corroborating evidence that the clan had not given Beouch any clan land as his own.

[¶ 23] The Children do not cite to any legal authority that bars consideration of the LCHO document. Instead, they assert that because Isebong is deceased, they were denied their right to cross-examine her. This assertion willfully overlooks the fact that introduction of recorded or hearsay evidence of statements by long-deceased individuals is routine practice in Land Court proceedings. It is simply the reality attendant to adjudicating purported land transfers that occurred 70 to 80 years ago. Even assuming Isebong’s recorded testimony would ordinarily constitute hearsay, “there is no hearsay rule applied to the Land Court.” *KSPLA v. Ngermellong Clan*, 21 ROP 1, 5 n.5 (2012).⁶ The Children correctly observe that the 1989 LCHO proceeding involved different land. This is true, but the trial court did not find the 1989 adjudication to be legally preclusive. The court found the record of Isebong’s statement to the LCHO that the clan had given no property to Beouch was probative of the question here whether the clan had given *Ididch* to Beouch. The Children cite to no authority that the court legally erred in doing so.

[¶ 24] The Children next argue that the trial court “misapprehended the probative value of [Teriong’s] 1988 return of land claim.” They contend that the 1988 claim was for a different, adjacent piece of property. Therefore Teriong’s statement that Beouch had only been trustee of that land does not undermine Teriong’s 1997 claim that *Ididch* was individually owned.

⁶ The Children also rely on evidence that would fail under their own rule. For example, Teriong is unavailable to be cross-examined by the clan about the statements he made on his land claim forms, but the Children urge these documents as probative evidence.

[¶ 25] The 1988 claim form is somewhat ambiguous, and it is possible that it refers to an adjacent lot rather than Lot 26 or 27. However, even assuming this is true, the Children have not shown it warrants reversing the Land Court. First, the 1988 claim form was not the only evidence the court found supported the clan's claim. Second, the Children's reading of the 1988 claim form still casts some doubt on their theory of individual ownership; under their reading, Kadoi must have allowed Beouch to use some clan lands as trustee (the land claimed in 1988) and other lands, namely *Ididch*, as individual property. This is not impossible, but the Children have not consistently advanced such a theory and there does not appear to be any particular evidentiary support for it. Finally, even if the 1988 claim form is wholly irrelevant, the Children do not point to any legal authority that the Land Court was required to credit Teriong's 1997 claim statements. The Land Court exists in large measure to evaluate and weigh conflicting claim statements. Teriong's 1997 statements are not legally conclusive—the Land Court must weigh and evaluate the statements of other claimants and other testimony and record documents. Teriong's 1997 statements are not legally entitled to any particular weight, and the Land Court could decline to credit them even if no other claim forms existed.

[¶ 26] The Children's final argument is that they have established ownership of Lots 26 and 27 through adverse possession. Among the numerous elements of an adverse possession claim, the claimant must show that the possession of the property is "hostile or adverse" rather than permissive. *See, e.g., Petrus v. Suzuki*, 19 ROP 37, 40-41 (2011). The Land Court found that Beouch's and Teriong's entry into and use of the land was with permission of the clan, a finding that the Children have not shown to be clearly erroneous. "The original permissive use of the land raises the presumption that continued use is permissive, rather than hostile, until the contrary is affirmatively shown." *Seventh Day Adventist Mission of Palau, Inc. v. Elsau Clan*, 11 ROP 191, 194 (2004). In other words, the twenty-year adverse possession clock never started if the lots were being used by permission of the owner. *Ucheliou Clan v. Oirei Clan*, 20 ROP 37, 39 n.2 (2012) ("Permissive use is inconsistent with the hostility element."). Because the Children have not established that their possession of the lots was hostile to the clan's ownership, their adverse possession claim fails.

[¶ 27] At bottom, there were two theories of the historical evidence. Ngerchemuul Clan pressed the theory that it had granted Beouch and Teriong permission to use clan lands. The Children pressed the theory that the land had been given to Beouch and Teriong as their individual property.⁷ The main evidence consisted of competing testimony: the Children’s testimony that Kadoi gave Beouch the land and the clan’s testimony that Kadoi and his relatives merely granted permission to live and farm there. The task of making credibility determinations and weighing the evidence falls to the Land Court and that court ultimately weighed the credible evidence as favoring the clan’s theory. On appeal, the Children must show not that their view of the evidence is the most plausible, but rather that the Land Court’s view of the evidence is clearly erroneous. “Where evidence is subject to multiple reasonable interpretations, a court’s choice between them cannot be clearly erroneous even if this Court might have arrived at a different result.” *Kebekol v. KSPLA*, 22 ROP 38, 40 (2015). Even if the Children have established a reasonable interpretation of the record in their favor, they have not established that Land Court’s interpretation of the record was unreasonable. Accordingly, we affirm the determination that Ngerchemuul Clan owns Lots 26 and 27.

III. Lot 24 (Smengesong Lineage and Dirraechetei Ito v. Dirraklang Ngirametuker)

A. Claims and Decision Below

[¶ 28] Several parties claimed the *mesei* that corresponds with Lot 24. Vincent Ito (“Ito”) pressed the claim of his mother Dirraechetei Ito. Ito claimed that Rechebei owned the *mesei* and gave it to his mother. Ito testified that he walked the boundaries of the *mesei* with his mother in 2003.

[¶ 29] Smengesong Lineage claimed the *mesei* as part of a much larger claim to land in the area. Anemary Edeaoch testified that her mother, a

⁷ Much of the Children’s evidence and arguments focus on driving home the point that Teriong lived and farmed on or near the lots for many years. But this is not in dispute. The dispute is whether Teriong, through Beouch, lived there by right of ownership, or whether Teriong lived there by permission from Ngerchemuul Clan.

member of the lineage, farmed several different lots, including Lot 24, and that others used the *mesei* as well. Anemary testified that she did not see anyone else using the adjacent properties.

[¶ 30] Dirraklang Ngirametuker testified that she purchased the *mesei* from Matlab in 1962 and that she cultivated it for many years until her advanced age would no longer allow her to. She testified that the *mesei* she worked abutted the *mesei* used by Setsko and another used by Yaoch Iechad. Dirraklang Ngirametuker said her *mesei* was more rectangular than the map depiction of Lot 24 and ran to the shore. During rebuttal, she stated that her *mesei* corresponded to Lot 19, a strip of land on the mangrove shoreline lying below all the *mesei*.

[¶ 31] In its decision, the Land Court first rejected Ito's claim. The court found he had "presented hardly any evidence of use of the *mesei* by either his mother or Rechebei, who allegedly wanted [her] to have the *mesei*." "The evidence presented was not sufficient to prove the Rechebei owned a *mesei* and that he gave or left it for [Ito's mother]." The court continued that even if she had owned a *mesei*, Ito's testimony established that it was in a different location than Lot 24.

[¶ 32] The court then turned to Anemary's testimony that Smengesong Lineage used a *mesei* in the area. The court credited Dirraklang's testimony that lineage members had used a *mesei* above hers, a *mesei* that corresponded to a different lot, Lot 24A. The Land Court found that Lot 24A was "most probably the *mesei* that Smengesong members used and owned."

[¶ 33] The Land Court stated that "Dirraklang is found to be the most reliable and credible witness among these claimants." "Her knowledge is personal, and not narrated to her by someone else." The court found that she purchased the *mesei* in Lot 24 from Matlab in 1962 and had used it for many years. As to her statement on rebuttal that her *mesei* corresponded to Lot 19 on the map, the court characterized this as coming "out of nowhere" and observed that "her demeanor was of one simply disheartened by the dispute and making a statement that she does not believe in." The court chose not to credit her statement about Lot 19 and awarded Lot 24 to her.

B. Arguments on Appeal

[¶ 34] Both Smengesong Lineage and Ito advance variations of the argument that the Land Court erred in awarding Lot 24 to Dirraklang after she stated late in the hearing that her *mesei* corresponded to Lot 19 on the map. The gist of these arguments is that although Dirraklang “knows that she owns a taro patch in that general area close to [Lot 24],” her statement about Lot 19 means there is no evidence to support a finding she owns Lot 24. In fact, the lineage argues, she “never claimed any part of [Lot 24].”

[¶ 35] In focusing on Dirraklang’s late-hearing statement that her *mesei* did not correspond to Lot 24 on the map, the appellants do not engage with the substance of Dirraklang’s claim or the whole of her testimony and evidence. The lineage and Ito do not seriously contend that Dirraklang did not assert a claim to a *mesei* in the area or that she did not testify credibly that she had cultivated that *mesei* for many years. Nor do they challenge the court’s finding that Dirraklang purchased a *mesei* from Matlab or meaningfully address Dirraklang’s testimony about the relative position of her *mesei* to other *mesei* in the area.

[¶ 36] The record provides more than adequate support for a factual determination that Dirraklang Ngirametuker claimed a *mesei* within the area of land being heard by the court. *Cf. Etipison v. Skilang*, 16 ROP 191, 195 (2009) (the existence of a claim is a question of fact, and the Land Court has considerable flexibility to determine whether a claim exists). The remaining question, then, is whether the court clearly erred in finding that Dirraklang had the strongest claim to title for the land corresponding to Lot 24.

[¶ 37] The Land Court found that Dirraklang was “the most reliable and credible witness among these claimants.” “Her knowledge is personal, and not narrated to her by someone else.” The court credited Dirraklang’s testimony about the relative position of her *mesei* to other *mesei* used by Setsko, Yaoch Iechad, and the lineage itself. This testimony is strong evidence that Dirraklang’s *mesei* corresponded to Lot 24—*i.e.*, surrounded by the lots of Setsko (who was awarded Lot 23), Yaoch Iechad (who was awarded Lot 25), and the lineage (who was awarded Lot 24A). In contrast, the Land Court found that Ito had presented “hardly any evidence” that his mother owned this *mesei*. The court also observed that Ito “offers no

evidence” as to how his mother learned the boundaries and that Ito “did not appear to know much about it and seemed to merely repeat what he had been told by others, including obvious errors in the recollection of his informants.” As to the lineage’s claim, the court found that the testimony of various credible witnesses established that the *mesei* used by lineage members “is most probably” Lot 24A, which the court awarded to the lineage.

[¶ 38] Based on the foregoing evidence, it would certainly not be clear error for the trial court to find that Dirraklang had the strongest claim to Lot 24. The question is whether Dirraklang’s statement that her claim corresponded to Lot 19 precluded the Land Court from awarding her Lot 24. The answer is no.

[¶ 39] Although the lineage asserts that Dirraklang “never claimed any part of [Lot 24],” this is not the case. Reviewing the whole of Dirraklang’s testimony and the record of proceedings below makes clear that her testimony and actions, as a whole, provide a solid evidentiary basis to award her Lot 24. As the Land Court noted, Dirraklang went to the site with Land Registration Officer (LRO) Flavin Uro and confirmed that existing concrete markers accurately demarked her *mesei*. Records indicated that these particular markers bounded Lot 24, and at various times during the hearing Dirraklang stated that what was shown to her in the field was “accurate.”

[¶ 40] It was only later when looking at the plotted Lot 24 on the hearing map that any ambiguity arose. Dirraklang expressed concern that on the map Lot 24 appeared more triangular and her land was more rectangular. She also stated that her claim “goes straight to the sea.” As Lot 19 was the most seaward lot, Dirraklang stated that this lot corresponded to her claim.

[¶ 41] We observe, as did the Land Court, that her identification of Lot 19 on the map is inconsistent with essentially all of her other testimony. For example, Dirraklang repeatedly testified about the relative location of her *mesei* to the *mesei* of others. Her *mesei* was “sandwiched between Yaoch [Iechad] and Setsko.” But Lot 19 is not sandwiched between anyone. Moreover, Dirraklang testified that she cultivated the *mesei* for many years. But Lot 19 was found to be principally mangrove, rather than cultivatable *mesei*; Lot 19 runs in a strip of mangrove below a line of *mesei* under cultivation.

[¶ 42] In short, Dirraklang’s changed statement was based almost entirely on her concern about the apparent shape of Lot 24 as plotted on the map. However, the LRO stated on the record that the *mesei* she indicated during the field visit was definitely inside what was depicted as Lot 24 on the map. Although Dirraklang presumably is best suited to identify the actual boundary markers of her land in the field, it is reasonable to assume that the LRO is better suited to identify the correct location of those markers plotted on the map. The Land Court found that there was no plausible way to link Lot 19 to her claim. The court found that her demeanor indicated that she was “making a statement that she does not believe in” and was “simply disheartened by the dispute.”

[¶ 43] Ultimately, the Land Court chose to credit the bulk of her testimony—(about the physical location of the *mesei* and its relation to other *mesei*)—and the testimony and records of the LRO, and declined to credit one other portion of her testimony—(about what cadastral map lot number corresponded to the physical *mesei*). It is well within a trial court’s discretion to credit some, but not all, of a witness’s testimony. *See, e.g., Irikl Clan v. Renguul*, 8 ROP Intrm. 156, 160 n.9 (2000) (finding “no merit” to the argument that a trial court must either credit all or none of a witnesses testimony); *see also, e.g., Bekebekmad v. Children of Sabino Bekebekmad*, 19 ROP 200, 204 (2012) (not error for trial court to disregard some portions of testimony from a witness otherwise credited); *cf. Estate of Nobor King v. Rengulbai*, 19 ROP 9, 13 (2011) (“The Trial Division therefore chose between two versions of inconsistent testimony. Given that the court noted the inconsistencies, justified its reliance on [some] testimony, and was in the best position to evaluate the credibility of these witnesses, we find no clear error.”). The court declined to hold Dirraklang to a statement that was apparently a product of confusion in reading the cadastral map and counter to her other credible testimony about the physical location of the *mesei*. She had been to the field and confirmed the actual monuments, and the attending LRO had confirmed that the monuments bounded Lot 24. Lot 24 also aligns with Dirraklang’s credible testimony about the relative location of her *mesei* to the others. It was not clear error for the Land Court to award Lot 24 to Dirraklang.

[¶ 44] Finally, Ito advances one additional argument. He argues that Dirraklang's *mesei* is actually within Lot 23 and that the court should have ordered a parcel split and awarded a portion of that lot to Dirraklang. Ito did not specify the awardee of Lot 23, Setsko Techur, as an appellee or indicate that the Land Court's decision with respect to Lot 23 was being appealed. *Cf.* ROP R. App. P. 3(c) (Notice of Appeal "shall designate the judgment, order or part thereof appealed from, and shall specify the party or parties against whom the appeal is filed.") Any substantive argument about Lot 23 is not properly before this Court. Regardless, the argument simply presents an alternative view of the evidence. Even assuming that view is reasonable, the burden on appeal is to show that the Land Court's view was unreasonable. For the reasons discussed above, the Land Court's view of the evidence was reasonable. "Where evidence is subject to multiple reasonable interpretations, a court's choice between them cannot be clearly erroneous even if this Court might have arrived at a different result." *Kebekol*, 22 ROP at 40 (2015). Accordingly, we affirm the determination that Dirraklang Ngirametuker owns Lot 24.

IV. Lot 25 (Smengesong Lineage and Kesol Clan v. Yaoch Iechad)

A. Claims and Decision Below

[¶ 45] Yaoch Iechad claimed a *mesei* called *Olsebaol* located in Lot 25. He was familiar with the *mesei* because he would go there by water craft and carry home taro cultivated by his mother. Kesol Clan in turn claimed that Lot 25 was part of a larger area of land known as *Klou* and *Kekerel Beror*. The clan claimed the land had been cultivated and used by clan members from time immemorial. Finally, Smengesong Lineage claimed Lot 25 was part of the *mesei* called *Ultouch*. The lineage claimed *Ultouch* was acquired as *elbechiielel a Ebulmau*.

[¶ 46] The Land Court's resolution of the substantive claims was straightforward. The court found that Kesol Clan's evidence that Lot 25 was within *Klou* and *Kekerel Beror* "was very general." The principal clan witness's "knowledge of the location of the *mesei* was not very reliable." The court further found this witness's statement about use of the area "was not credible" in view of other witness testimony. "The vague and very general statements of use and location made by Kesol do not substantiate its

claim that Lot 25 is part of *Klou* and *Kekerel Beror*.” Likewise, the court found that Smengesong Lineage “did not present credible evidence to show that Lot 25 was part of the *mesei ra Ultouch*.” Additionally, the court found the location of Lot 25 was inconsistent with the relative locations of other *mesei* credibly described by other claimants, and “for lack of clearer evidence, it is found that the *mesei* that Smengesong members used, and claim to be *Ultouch*, cannot be Lot 25.”

[¶ 47] In contrast, the court found that Yaoch’s “description of the *mesei* was very detailed and credible.” He credibly described the general shape, orientation, and relative location to the other *mesei*. The court also noted that unsolicited testimony from claimants of adjacent lots corroborated Yaoch’s claim. The Land Court found that “weighing all the available evidence . . . Yaoch Iechad had the most credibly substantiated claim to Lot 25 among the three claimants” and awarded the lot to him.

B. Arguments on Appeal

[¶ 48] Neither Smengesong Lineage nor Kesol Clan seriously challenge the Land Court’s factual findings or meaningfully undermine Yaoch’s claim to the *mesei ra Olsebaol*. Instead, both argue that Yaoch later revised his claim by stating that the *mesei* comprised only a smaller area within Lot 25. Both appellants argue it was error to award him the entire lot. The gist of their argument is that the record does not support a finding that Yaoch owned the bordering portion of Lot 25 outside the boundaries of *Olsebaol*.

[¶ 49] Assuming Yaoch did provide additional testimony that *Olsebaol* was smaller than Lot 25,⁸ we see no error in the Land Court’s decision to award Lot 25 to him. As an initial matter, as with any testimony, the trial court was not required to credit Yaoch’s statement that *Olsebaol* did not run to the boundaries of the lot. *See, e.g., Irikl Clan*, 8 ROP Intrm. at 160 n.9.

⁸ The Land Court decision says “Yaoch later advised the court through counsel that the *mesei Olsebaol* was a much smaller lot inside [Lot 25] and does not include the entire lot.” However, court records indicate that Yaoch was not represented by counsel and proceeded pro se at the hearing, so the reference to his statement coming “through counsel” is hard to interpret. Because it does not change the result, we have assumed that such a statement can be charged to Yaoch, although it is not clear whether it should be.

But more fundamentally, the lineage's and the clan's arguments overlook the Land Court's substantive task in superior title cases. The ultimate question for a court is which claimant has the strongest claim to title. *See, e.g., Eklbai Clan*, 22 ROP at 146. "Strongest" is a relative term. No party may have a particularly strong claim, and the "strongest" among them may be the one that is the "least weak."

[¶ 50] The trial court found Yaoch's testimony about the *mesei* to be "detailed and credible," and corroborated by unsolicited testimony from other claimants. It is clear that Yaoch had the strongest claim to the *mesei* in Lot 25. The only question is whether it was error to conclude he also had the strongest claim to the bordering portions of Lot 25.

[¶ 51] The Land Court explicitly found that "Smengesong did not present credible evidence to show that Lot 25 was part of the *mesei ra Ultouch*." The lineage has not shown that this finding was clearly erroneous. The Land Court found that the Kesol Clan witness's "knowledge of the location of the *mesei* was not very reliable," his testimony about use "was not credible," and that the record "does not substantiate [Kesol's] claim [to] Lot 25." The clan has not shown those findings were clearly erroneous. In other words, the record findings are that neither the lineage nor the clan had credible evidence backing their claims to Lot 25.

[¶ 52] In contrast, the record suggests that Yaoch's ownership of the bordering portions of Lot 25 was supported by at least minimally credible evidence. Yaoch and others offered credible testimony that his mother's *mesei* was adjacent to other *mesei* in the area. It is reasonable to assume that the fully cultivatable portions of adjacent *mesei* did not run exactly next to each other; it is a fair proposition that there were some bordering portions of uncultivated land, paths, and natural features between the cultivated portions. Absent other indicia of control, it is not unreasonable to assume each *mesei* owner's control ran to something like the midpoint of the bordering land between *mesei*. It is also entirely possible that there were various small portions of land between neighboring *mesei* and residences that were not actively under anyone's control at all times. It is not unreasonable to conclude that Yaoch's extremely strong claim to title of the *mesei* in the middle of the lot gives him at least a marginally stronger claim to title for the

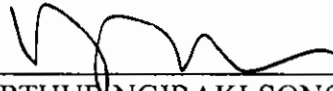
bordering portions than the other claimants whom the court found did not present credible evidence to substantiate title to any portion of the lot.

[¶ 53] The evidence of Yaoch's ownership over the bordering portions may have been weak in absolute terms. But the competing claimants had no credible evidence of ownership. As between these claimants, it was not clearly erroneous for the Land Court to find Yaoch had the "strongest" claim to ownership. Accordingly, we affirm the determination that Yaoch Iechad owns Lot 25.

CONCLUSION

[¶ 54] For the reasons above, the Court affirms the determinations of the Land Court.

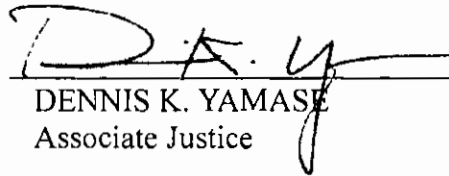
SO ORDERED, this 21st day of August, 2017.



ARTHUR NGIRAKLSONG
Chief Justice



R. BARRIE MICHELSEN
Associate Justice



DENNIS K. YAMASE
Associate Justice