

IN THE  
SUPREME COURT OF THE REPUBLIC OF PALAU  
APPELLATE DIVISION

FILED <sup>CaK</sup>

2024 JAN 29 P 3: 15

<p><b>KABRINA NGIRATNGER,</b> <i>Appellant,</i> v. <b>KINJIRO KLOULUBAK and</b> <b>SABO ESEBEI,</b> <i>Appellees.</i></p>	<p>SUPREME COURT OF THE REPUBLIC OF PALAU</p>
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Cite as: 2024 Palau 3  
Civil Appeal No. 23-015  
Appeal from Civil Action No. 17-069

Decided: January 29, 2024

Counsel for Appellant .....	Lalii Chin Sakuma
Counsel for Appellee Kinjiro Kloulubak .....	Ronald K. Ledgerwood
Counsel for Appellee Sabo Esebei .....	Raynold B. Oilouch

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice, presiding  
FRED M. ISAACS, Associate Justice  
KATHERINE A. MARAMAN, Associate Justice

Appeal from the Trial Division, the Honorable Lourdes F. Materne, Associate Justice, presiding.

**OPINION**

PER CURIAM:

[¶ 1] This appeal involves an attempt to transfer lineage-owned land to an individual claiming senior strong status within a lineage. The issue is whether the trial court erred in denying Appellant Kabrina’s request to declare her the sole surviving senior strong member of Ngerbachesis Lineage with the right to alienate land known as *Ngertnker*.

[¶ 2] For the reasons set forth below, we **AFFIRM**.

## BACKGROUND

[¶ 3] Appellant Kabrina filed a petition requesting the trial court declare her the sole surviving senior strong member of Ngerbachesis Lineage with the right to alienate *Ngertuker*. *In re: Matter of Quieting Title to Land Known as Ngertuker*, Civil Action No. 17-069, at 4 (Tr. Div. Feb. 21, 2023). After receiving two objections to Kabrina’s petition, the court scheduled a trial. Kabrina, who has not resided in Palau since 1965, did not attend trial or present credible evidence of her status and strength within Ngerbachesis Lineage. *Id.* at 2. Kabrina’s sole witness admitted that his testimony hinged on his memory of a conversation he and Kabrina had in the 1970s and on a genealogy chart created by Appellee Sabo’s father. *Id.* Consequently, the court had difficulty finding the witness’s testimony credible.

[¶ 4] The trial court determined Kabrina failed to prove by a preponderance of the evidence that she is the sole surviving senior strong member of Ngerbachesis Lineage. *Id.* at 3. Kabrina appeals that determination.

## STANDARD OF REVIEW

[¶ 5] We review matters of law de novo, findings of fact for clear error, and exercises of discretion for abuse of that discretion. *Ngirmeriil et al. v. Terekien Clan*, 2023 Palau 21 ¶ 12. “Status and membership in a lineage are questions of fact” and as “an appellate tribunal, our review of factual findings is limited to reversing those findings that are clearly erroneous.” *Imeong v. Yobech*, 2016 Palau 21 ¶ 17.

[¶ 6] The trial court is best suited “to hear the evidence and make credibility determinations.” *Ngirmeriil*, 2023 Palau 21 ¶ 13. “We generally defer to the credibility determinations of the trial court, and we will only overturn them in extraordinary cases.” *Palau Cmty. Coll. v. Ibai Lineage*, 10 ROP 143, 149 (2003).

## DISCUSSION

[¶ 7] Kabrina presents a single issue on appeal: Whether the trial court erred in denying Kabrina’s request to declare her the sole surviving senior strong member of Ngerbachesis Lineage with the right to alienate *Ngertuker*.

To succeed, Kabrina must show the trial court clearly erred in finding she failed to prove her status, and she must present extraordinary circumstances that warrant overturning the court's determination that her witness lacked credibility.

[¶ 8] Kabrina begins her appeal by challenging the court's factual findings through what she asserts is "undisputed" evidence in her favor. This is not only a losing proposition, but also one that borders on frivolity.<sup>1</sup> Kabrina then focuses much of her argument on Appellees' status within Ngerbachesis Lineage, questioning the legitimacy of Appellee Kinjiro's ties to the Lineage and disparaging Appellee Sabo's credibility. These recycled arguments fail to show how the court clearly erred in finding Kabrina did not prove her status through credible evidence. That failure proves fatal to her appeal.<sup>2</sup>

[¶ 9] The trial court made a reasonable finding that Kabrina failed to prove her status and a sound determination that Kabrina's witness lacked credibility. Therefore, the trial court did not err in denying Kabrina's request to declare her the sole surviving senior strong member of Ngerbachesis Lineage with the right to alienate *Ngertuker*.

### CONCLUSION

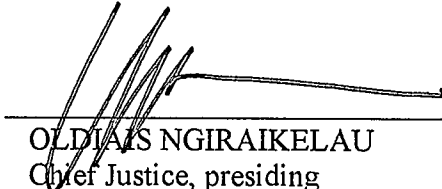
[¶ 10] For the foregoing reasons, we **AFFIRM** the Trial Division's decision.

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<sup>1</sup> See *Imeong*, 2016 Palau 21 ¶¶ 18-21 (cautioning appellants against merely restating favorable facts or presenting their own preferred interpretation of evidence).


<sup>2</sup> Focusing on the trial court's determination of Kabrina's status within Ngerbachesis Lineage and on the credibility of her witness was an essential step toward meeting the clearly erroneous standard. See *id.* ¶ 21 ("In a case that turns on factual determinations, the failure to point to any specific factual determination and explain why that determination was clearly erroneous is almost necessarily fatal to an appeal.").

SO ORDERED, this 29th day of January 2024.



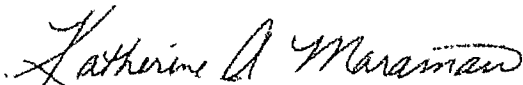
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OLDIAS NGIRAIKELAU  
Chief Justice, presiding



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FRED M. ISAACS  
Associate Justice



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KATHERINE A. MARAMAN  
Associate Justice