

IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

FILED ^{ca}

2024 FEB 27 P 3:25

KAMMEN CHIN,
Petitioner,
v.
NGEREBRAK CLAN, DINGILIUS IGNATIO MOREI, ROSE
TELLOI SILES, LALII GIBBONS, PIA MOREI, and
ALFONSO KUMANGAI,
Respondents.

SUPREME COURT
OF THE
REPUBLIC OF PALAU

Cite as: 2024 Palau 9
Civil Appeal No. 23-002
Appeal from Civil Action No. 21-125

Decided: February 27, 2024

Counsel for Petitioner..... Johnson Toribiong
Counsel for Respondents Raynold B. Oilouch

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice, presiding
FRED M. ISAACS, Associate Justice
DANIEL R. FOLEY, Associate Justice

Appeal from the Trial Division, the Honorable Kathleen M. Salii, Presiding Justice, presiding.

ORDER DENYING REHEARING¹

PER CURIAM:

[¶ 1] Before the Court is Kammen Chin’s Petition for Rehearing (hereinafter, “Petition”), seeking a rehearing of the Court’s Opinion in

¹ Pursuant to CJ Memo: 2020-002, governing “Publication of Opinions, Decisions, and Orders,” normally, the Court will “not publish any order *denying* a petition for rehearing or motion for reconsideration . . . unless the Chief Justice directs otherwise.” Petitioner Chin asserts the Court overlooked his argument on the significance of burial under Palauan custom. As

Kammen Chin v. Ngerebrak Clan et al., 2024 Palau 4. Petitioner Chin asserts the “Court overlooked or misapprehended certain provisions of Palauan traditional law and custom,” including the significance of burial under Palauan custom, when the Court affirmed the trial court in its Opinion dated February 1, 2024. Pet. for Reh’g, at 1.

[¶ 2] Under the Rules of Appellate Procedure, petitions for rehearing “must state with particularity each point of law or fact that the petitioner believes the Appellate Division has overlooked or misapprehended and must argue in support of the petition.” ROP R. APP. P. 40(A)(2). The Court shall grant such petitions “exceedingly sparingly, and only where the Court’s original decision ‘obviously and demonstrably contains an error of fact or law that draws into question the result of the appeal.’” *Kebekol v. KSPLA*, 22 ROP 74, 74 (2015) (collecting cases).

[¶ 3] *Kammen Chin* arose from a trial court decision finding Respondents, and not Petitioner Chin, are senior strong members of Ngerebrak Clan of Medal Village in Oikull, Airai. As explained in the Opinion, we review the Trial Division’s factual findings for clear error, and “determining credibility and weighing evidence is the trial court’s domain.” *Kammen Chin*, 2024 Palau 4 ¶ 8. After considering all of Petitioner Chin’s arguments properly before the Court, we determined the appeal “fail[ed] to present any unreasonable factual findings or extraordinary circumstances that warrant[ed] overturning the court’s credibility determinations.” *Id.* ¶ 9.

[¶ 4] In his Petition for Rehearing, Petitioner Chin argues that “where a Palauan is buried is one of the most convincing tenet of Palauan traditional law that determines one’s clan membership; his or her final resting place. This issue was not taken into account by this Court.” Pet. for Reh’g, at 6. Petitioner asserts that Respondents’ ancestors were buried in Ngerdelolk village of Peleliu, which indicates that Respondents are true members of Luiil Clan, and not Ngerebrak Clan. The significance of burial under Palauan custom was not lost

discussed in this Order, we did not overlook that argument. Although we did not address each and every argument raised in the parties’ briefs, we considered those arguments properly before the Court as bound by relevant appellate standards of review.

on the Court, nor did the Court overlook Petitioner’s argument on that issue.² The trial court acknowledged Respondents’ ties to Luiil Clan, finding Respondents “trace their roots in Ngerebrak Clan through their origin story from Luiil Clan of Ngerdelolk, Peleliu.” This was a reasonable factual finding based on the evidence presented at trial.

[¶ 5] Petitioner Chin also asks the Court to consider evidence that he is present in Medal and that he participates in and contributes to Oikull customs. The trial court determined that such evidence “supports a finding that Defendant does so as an ochell member of Bars Clan, the second clan of Medal, and not as a member of Ngerebrak Clan, the first clan of Medal.” This factual finding was also reasonable given the considerable evidence proffered by Respondents. Therefore, Petitioner Chin failed to explain how the trial court clearly erred in its factfinding.

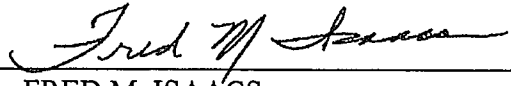
[¶ 6] Petitioner Chin now fails to show where the Opinion contains an obvious and demonstrable error of fact or law that undermines the appeal’s result. Because Petitioner Chin’s argument in this Petition for Rehearing is devoid of merit, the Petition is **DENIED**.

SO ORDERED, this 27th day of February 2024.

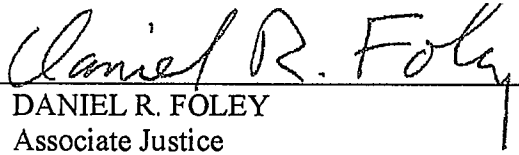
² Petitioner Chin’s argument underscores his misunderstanding of the Court’s role as guided by appellate standards of review. In considering arguments such as those presented in *Kammen Chin*, we do not re-weigh evidence or substitute the trial court’s judgment with our own judgment.



OLDIATIS NGIRAIKELAU
Chief Justice, presiding



FRED M. ISAACS
Associate Justice



DANIEL R. FOLEY
Associate Justice