NGIRUMERGANG, Appellant

v.

KOICHI WATANABE, Appellee

Civil Appeal No. 97

Appellate Division of the High Court

Palau District

September 19, 1975

Dispute over title to land. The Appellate Division of the High Court, Williams, Associate Justice, held that where father who was individual owner of land died intestate, lower court properly held that his adopted son was the individual owner of the land, not person claiming that since father did not dispose of the land it was up to the lineage to distribute the land and that he took through the lineage and thus had good title.

1. **Palau Land Law—Individual Ownership—Decedents' Estates**

   Customary Palauan practice was not the only accepted system of intestate disposition and distribution of property prior to the 1957 enactment of a statutory system.

2. **Palau Land Law—Individual Ownership—Decedents' Estates**

   Finding that adopted son of individual owner of land was, after his father's death intestate, the individual owner of the land, and that person claiming the land could not prevail where he alleged that since the father died without having disposed of the land it was up to the lineage to dispose of the property and that he took through the lineage and therefore held good title, would not be disturbed on appeal.

3. **Appeal and Error—Final Judgment or Order**

   It is not the function of the Appellate Division to ascertain whether the evidence below supports one side or the other; its function is to determine whether there is any evidence supporting the judgment.

Counsel for Appellant: ROMAN TMETUCHL
Counsel for Appellee: JOHN O. NGIRAKED

BURNETT, *Chief Justice*, HEFNER, *Associate Justice*, WILLIAMS, *Associate Justice*

WILLIAMS, *Associate Justice*

This is an appeal from the judgment entered in Palau Civil Action 439. The trial court found that Lot 862, as

listed in the Tochi Daicho, is individually owned by Dembei, adopted son of Umang, and that the appellee Koichi Watanabe is his duly appointed representative in control of the land. The appellant claimed to be the individual owner of a portion of the land, upon which his house is located, on the basis of a purchase from the Olengebang lineage. Although the original complaint was brought for ejectment, the case resolved itself into a quiet title action, was treated as such by the trial court, and will be so treated here.

The appellant does not dispute that Umang, who died around 1944, was the individual owner of the land in question. In his brief, the appellant admits the existence of a right which was vested in Umang to transfer the property prior to his death. The appellant's argument is grounded in the following propositions: first, that customary practice was the only accepted system of intestate disposition and distribution of property in the Palau District prior to April, 1957, when the "Palau Congress" enacted a statutory system of inheritance and distribution of real property by will or intestacy; and second, that under that customary practice Umang's matrilineal lineage—the Olengebang lineage—had legal authority to manage his real property and distribute it to his heirs. Appellant's argument, in short, is that since Umang died without having effectively disposed of the property in question under customary practice, it was then up to the lineage to distribute the property, and that the appellant took through the lineage and therefore holds good title to the land in question.

[1] The appellant's first proposition—that customary practice was the only accepted system of intestate disposition and distribution of property prior to April, 1957—has been presented to this Court on at least one previous occasion. In *Ngiruhelbad v. Merii*, 2 T.T.R. 631, the Appellate Division traced the history of individual land ownership in

Palau and rejected the foregoing proposition, as this Court rejects it here, stating at 636:

> We have set out the chain of authority here to show that old Palauan custom is not, and has not been for more than sixty years, the sole criterion to be considered concerning title to and transfer of land. Administrative determinations or rulings of the various foreign administrations take precedence over local custom.

The Court went on to say, at 637, that

> [T]he very purpose of introducing the concept of individual land ownership, and the registration provisions implementing the concept, were to get away from the complications and limitations of the matrilineal clan and the lineage system as to such individually owned land.

[2] The appellant's second proposition—that the lineage had legal authority to manage and distribute the property in question—has also been previously rejected by this Court. It has been repeatedly held that in Palau individual ownership of land means just that—individual ownership—and that the lineage of a decedent who owned property individually had no reversionary interest in or control over such property. *Ngeskesuk, et al. v. Solang*, Palau Civil Action 49–73 and *Solang v. Ngeskesuk*, Palau Civil Action 56–73, both reported in 6 T.T.R. 505; *Rechuldak v. Armaluuk*, 5 T.T.R. 3; *Orrekum v. Kikuch*, 2 T.T.R. 533; *Elechus v. Kdesau*, 4 T.T.R. 444; *Ngiruhelbad v. Merii*, 1 T.T.R. 367.

The appellant argues eloquently in his brief that this Court should now reject the principles set forth in the decisions mentioned above. The appellant does not, however, cite any contrary authority whatsoever; he argues only that the Court in *Ngiruhelbad, supra*, did not fully consider the history of the 1957 legislation (now section 801 of Chapter VIII of the Palau District Code) or of the Palauan customary practices in respect to intestate disposition of real

property. He does not, however, set forth any support for those arguments.

[3] Nor does the record support the appellant's contention that no evidence was submitted to establish that the land was ever transferred to Dembei prior to Umang's death. The testimony of appellee's witnesses was to the effect that Umang, by oral will, devised the property in question to Dembei. The trial court found that such a will was made. This Court's examination of the record reveals that such evidence was introduced at trial. It is not the function of the Appellate Court to ascertain whether the evidence supports one side or the other. The appellate function is to determine whether there is any evidence supporting the judgment. *Henos v. Kaiko*, 5 T.T.R. 352, 356.

From the foregoing it is clear that the judgment below was correct as a matter of law. That judgment is affirmed.

Affirmed.

ESTEFANIA TEJADA ARCE, Plaintiff

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Defendant

Civil Appeal No. 142

Appellate Division of the High Court

Mariana Islands District

September 19, 1975

WILLIAMS, *Associate Justice*

Plaintiff-appellant having filed a motion to dismiss her appeal, without prejudice, so that she may file a motion for relief from judgment pursuant to Rule 18(e) of the Trust Territory Rules of Civil Procedure in the Trial Division of the High Court, and defendant-appellee having