

FILED A-A

IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

KEMMOTS REKEMEL and SATSKI FLORENCIO,
Appellants,
v.
DARLENE WARLAND,¹
Appellee.

Cite as: 2023 Palau 29
Civil Appeal No. 23-010
Appeal from Civil Action No. 20-036

Decided: December 27, 2023

Counsel for Appellant	Vameline Singeo
Counsel for Appellee	Johnson Toribiong

BEFORE: JOHN K. RECHUCHER, Associate Justice, presiding
DANIEL R. FOLEY, Associate Justice
ALEXANDRO C. CASTRO, Associate Justice

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

OPINION²

PER CURIAM:

[¶ 1] Appellants Kemmots Rekemel and Satski Florencio argue that the trial court's February 10, 2023 Decision failed to properly articulate its findings of fact and conclusions of law to allow for meaningful appellate review.

¹ Because clan titles, and therefore the ability to bring suit on behalf of the clan, are disputed in this case, we have altered the caption to remove all disputed clan titles and to remove Sechedui Clan from the list of appellants. *See Etipson v. Obichang*, 2020 Palau 8 n.1.

² The parties did not request oral argument in this appeal. No party having requested oral argument, the appeal is submitted on the briefs. *See ROP R. App. P. 34(a)*.

[¶ 2] Because we find that the trial court’s decision had sufficient support and we cannot discern clear error in it, we **AFFIRM**.

BACKGROUND

[¶ 3] Sechedui Clan of Teliu Hamlet in Peleliu State, recognizes two chief titles: the male title *Iyechad* and the female title *Uodelchad*. In 2014, Appellants Rekemel and Florencio sent a letter in their alleged capacity as title-bearers for Sechedui Clan to Appellee Darlene Warland to eject her from Cadastral Lots Nos. 085 R 02 and 085 R 04, which belong to Sechedui Clan. Warland’s relatives, Cashmere Tkel and Matsko Filibert, also claiming the chief titles, sued to enjoin Rekemel and Florencio from taking action over Sechedui Clan lands.

[¶ 4] In that first suit, the Trial Division concluded that Rekemel, Florencio, Tkel and Filibert all “failed to convince the Court that they are the title-bearers of Sechedui Clan with authority over Clan lands.” Findings of Fact and Decision, *Tkel v. Rekemel*, Civ. No. 14-168, at 6 (Tr. Div. June 30, 2017). This judgment was affirmed on appeal. *See Rekemel v. Tkel*, 2019 Palau 36 ¶ 8. Rekemel and Florencio filed another suit in 2020, re-asserting their status as current title-bearers. On February 10, 2023, the Trial Division issued a decision in which it recognized that title-bearers can change over time. Decision, *Sechedui Clan v. Warland*, Civ. No. 20-036, at 2 (Tr. Div. Feb. 10, 2023). However, the Trial Division found that Rekemel and Florencio failed to introduce evidence that they became title-bearers between 2017 and the time of the trial. *Id.* at 3.

STANDARD OF REVIEW

[¶ 5] We review the trial court’s findings of fact for clear error. *Kiuluul v. Elilai Clan*, 2017 Palau 14 ¶ 4. “When reviewing findings of fact under the clear error standard, we view the record in the light most favorable to the Trial Division’s judgment, and the factual determinations of the [trial] court will not be set aside if they are supported by such relevant evidence that a reasonable trier of fact could have reached the same conclusion, unless this court is left with a definite and firm conviction that a mistake has been made.” *Imetuker v. Ked Clan*, 2019 Palau 30 ¶ 11 (internal quotation marks omitted).

DISCUSSION

[¶ 6] Appellants argue that the trial court failed to address the evidence presented and that its findings were not specific enough for meaningful appellate review. The trial court stated,

The Plaintiffs failed to introduce into evidence that between 2017 decision and at time of trial that they became heads of Sechedui Clan. Evidence presented by the Plaintiffs showed a *blengur* taking place in 2014 which supposedly installed Plaintiff Kemmots Rekemel as *Iyechad* of Sechedui Clan. Plaintiff Satski Florencio's appointment supposedly took place prior to 2014 as she supposedly appointed her brother Kemmots Rekemel to be *Iyechad* in 2014.

Decision, *Sechedui Clan v. Warland*, Civ. No. 20-036, at 3 (Tr. Div. Feb. 10, 2023).

[¶ 7] While we agree that trial courts have a duty to provide clear written records of their findings, the court's analysis "need not discuss all the evidence relied on to support its conclusion." *Eklbai Clan v. Imeong*, 13 ROP 102, 107 (2006). In fact, as we have stated,

An appellate court's role is not to determine issues of fact or custom as though hearing them for the first time. The trial court is in the best position to hear the evidence and make credibility determinations, and if the evidence before it is insufficient to support its findings, the Court should remand rather than determine unresolved factual or customary issues on appeal.

Imeong v. Yobech, 17 ROP 210, 215 (2010).

[¶ 8] In other words, while trial courts should provide clear written findings to adequately explain their reasoning, remand is usually only appropriate for

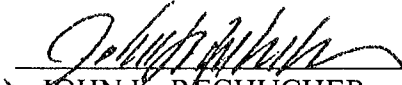
the trial court to clarify its decision if a clear error is found. *See Camacho v. Osarch*, 19 ROP 94, 97 (2012). The trial court made sufficient findings of facts where it discussed that Appellants only brought forward facts which occurred before 2017 and had already been found insufficient to prove that Appellants are title-bearers. Accordingly, we are not “left with a definite and firm conviction that a mistake has been made.” *Imetuker*, 2019 Palau at ¶ 1.

[¶ 9] In addition, we remind that the burden of demonstrating error on the part of a lower court is on the appellant. *Ngetchab v. Lineage v. Klewei*, 16 ROP 219, 221 (2009) (“[I]t is the job of Appellant, not the Court, to search the record for errors.”). To do so, the appellant must “point out specifically where the findings are clearly erroneous,” otherwise the appeal borders on being frivolous as “it wastes the time of opposing counsel and the resources of both parties.” *Ngetchab Lineage v. Klewei*, 16 ROP 219, 221 (2009) (quoting *Pachmayr Gun Works, Inc. v. Olin Mathieson Chem. Corp.*, 502 F.2d 802, 807 (9th Cir. 1974)). Appellants’ Opening Brief does not explain how the evidence is insufficient to support the trial court’s findings, nor does it specify unresolved factual or customary issues that would require remand. In that regard, Appellants’ Brief is woefully lacking and this appeal borders on frivolous. *See Petrus v. Suzuki*, 19 ROP 136, 138 (2012) (“[A]n appeal is frivolous if the result is obvious, or the arguments of error are wholly without merit.”).

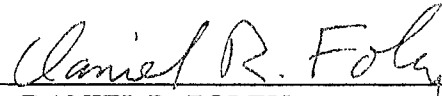
CONCLUSION

[¶ 10] We **AFFIRM** the Trial Division’s judgment.

SO ORDERED, this 27th day of December 2023.



JOHN K. RÉCHUCHER
Associate Justice, presiding



DANIEL R. FOLEY
Associate Justice



ALEXANDRO C. CASTRO
Associate Justice