

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

**HILARIA N. LAKOBONG and SRIDERIO C. RENGULBAI,**  
*Appellants,*  
**v.**  
**HENRY BLESAM,<sup>1</sup>**  
*Appellee.*

Cite as: 2020 Palau 28  
Civil Appeal No. 20-010  
Appeal from Civil Action No. 17-228

Argued: November 20, 2020  
Decided: December 7, 2020

Counsel for Appellants ..... Johnson Toribiong  
Counsel for Appellee ..... Masami Elbelau, Jr.

BEFORE: JOHN K. RECHUCHER, Associate Justice  
GREGORY DOLIN, Associate Justice  
ALEXANDRO C. CASTRO, Associate Justice

Appeal from the Trial Division, the Honorable Oldiais Ngiraikelau, Presiding Justice, presiding.

**OPINION**

RECHUCHER, Associate Justice:

[¶ 1] This case concerns a dispute over who had the authority to appoint the male chief titleholder of Eteet Clan of Koror. The trial court found that Katarina Katosang was *Tmikeu* (the clan's female chief title) and properly

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<sup>1</sup> 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 Eteet Clan from the list of appellants. See *Etpison v. Obichang*, 2020 Palau 8 n.1. Roman Yano, who was a defendant in the trial court, is not a party to this appeal.

appointed Appellee Henry Blesam as *Ngircheteet* (the clan's male chief title). Discerning no error in the trial court's judgment, we **AFFIRM**.

## BACKGROUND

[¶ 2] Appellants brought suit against Blesam, seeking a declaration that Appellant Sriderio Rengulbai, not Blesam, was properly appointed *Ngircheteet*. After a four-day trial, the trial court made the following pertinent factual findings:

- Eteet Clan of Koror is interrelated (*kaukebliil*) with Eteet Clan of Ngatpang, but the latter clan “does not have a say over who shall bear the male and female titles of Eteet Clan of Koror.” Findings of Fact and Conclusions of Law (Feb. 13, 2020) at 4.
- Katosang held the female chief title *Tmikeu* at all times relevant to the present appeal until she died in 2019. *Id.* at 7.
- In 2010, Blesam was appointed *Ngircheteet* by *Tmikeu* Katosang, in consultation with other senior female clan members, including Appellant Hilaria Lakobong. *Id.*
- In 2012, Rengulbai was purportedly appointed *Ngircheteet* by another group of senior female clan members from Eteet Clan of Koror and Eteet Clan of Ngatpang, including Lakobong, who claimed to be acting as *Tmikeu*. These women did not have the authority to appoint the male titleholder. *Id.* at 7, 9-10.
- Around this time, Roman Yano also claimed to have been appointed *Ngircheteet*. *Id.* at 7-8.
- In 2013, and again in 2015, the council of chiefs “rejected all the purported appointments because multiple individuals [Blesam, Rengulbai, and Yano] were vying for the *Ngircheteet* title.” *Id.* at 8; *see id.* at 14.
- In 2019, Katosang withdrew her support for Blesam in a sworn statement. She claimed she was changing her support because she “became aware that [Yano, her sister's son] has been appointed *Ngircheteet*.” *Id.* at 15. In purporting to switch her

allegiance, Katosang was not exercising her prerogative as *Tmikeu* to appoint another person after the council of chiefs rejected Blesam’s appointment. Rather, without consulting the senior female clan members, Katosang “switched her support to Yano because it was difficult for her to go against her sisters[]” who approved of Yano’s appointment. *Id.* at 17.

[¶ 3] Regarding Katosang’s switch in support from Blesam to Yano, the trial court stated it could not “conclude that under Palauan custom Katosang’s subsequent support of Yano validated Yano’s initial appointment,” which was seemingly made without Katosang’s knowledge. *Id.* The trial court thus concluded that it was Blesam’s appointment, rather than Yano’s, that “was proper and made pursuant to Palauan custom.” *Id.* at 18. Rengulbai and Lakobong timely appealed, challenging the trial court’s finding that Blesam, rather than Rengulbai, was properly appointed *Ngircheteet*.

#### STANDARD OF REVIEW

[¶ 4] We review a trial court’s findings of fact for clear error, and its conclusions of law, including its determinations as to Palauan customary law, de novo. *Kiuluul v. Elilai Clan*, 2017 Palau 14 ¶ 4; *Beouch v. Sasao*, 20 ROP 41, 50 (2013). Pursuant to 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.” *Rekemel v. Tkel*, 2019 Palau 36 ¶ 5 (internal quotation marks omitted).

#### DISCUSSION

[¶ 5] The central question before us on appeal is whether the trial court erred in its factual determinations that Katosang was *Tmikeu*; that Lakobong was not *Tmikeu* and did not have the authority to appoint the *Ngircheteet*; and that Blesam was properly appointed *Ngircheteet* by Katosang.<sup>2</sup> Applying the

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<sup>2</sup> We acknowledge the parties’ apparent agreement that the trial court would not “decide the question of who . . . is *Ngircheteet*” and that the trial would “be limited to the sole issue of *who has the authority to appoint Ngircheteet* within Eteet Clan.” Findings of Fact and Conclusions

deferential standard for evaluating a trial court’s findings of fact, we cannot say that any of these findings were clearly erroneous. *See Rekemel*, 2019 Palau 36 ¶ 5. We also discern no clear error in the trial court’s factual findings that the Eteet Clan of Ngatpang is sufficiently separate from the Eteet Clan of Koror that the senior members of Eteet Clan of Ngatpang, including Huyuko Rdialul (who Rengulbai contends is the female titleholder of Eteet Clan of Ngatpang), do not have a decisive role in appointing the *Ngircheteet*.

[¶ 6] Finally, applying plenary review, we discern no legal error in the trial court’s conclusion that Katosang’s switch in support to Yano did not nullify her prior appointment of Blesam. Although the female titleholder has the ultimate authority to appoint the male titleholder, we are not aware of any authority under Palauan custom for the proposition that an improper appointment, made without the knowledge of the female titleholder, can later be ratified by the female titleholder to effectively nullify a prior, proper appointment. If this is a newly established principle under customary law, or a principle that has heretofore not been addressed by controlling case law, it should be presented and evaluated under the *Beouch* framework in an appropriate case. *See Beouch*, 20 ROP at 49.

[¶ 7] For these reasons, then, the last proper *Ngircheteet* appointment was the appointment of Blesam by Katosang in 2010. To the extent Katosang’s recent death, and the rejection of all appointments by the council of chiefs, leaves uncertainty as to the identity of the *Ngircheteet*, resolving this uncertainty falls outside this Court’s role of reviewing the trial court’s decision. Our present decision merely confirms that Katosang had the right to, and did, select Blesam to be *Ngircheteet*. Whether Blesam will be accepted as the titleholder by the council of chiefs is for that body to decide, and we express no view on that issue. Ultimately, as we have stated, “[t]he selection of a title

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of Law (Feb. 13, 2020) at 3 (emphasis added). The trial court seemingly went beyond this agreement when it entered a judgment declaring that “Katosang’s 2010 appointment of [ ] Henry Blesam was proper.” Judgment (Feb. 13, 2020) at 2. However, we understand the parties’ agreement about the scope of trial to simply be a recognition that the trial court could not definitively determine who is *Ngircheteet* because the council of chiefs had rejected all appointments—that is, the trial court could not speak to the second step of the two-step process for confirming a titleholder. *See Edward v. Suzuki*, 19 ROP 187, 193 (2012) (explaining that “[t]he second part of the appointment process requires that the newly appointed [titleholder] gain approval as the ‘friend’ of the klobak of the village where he comes from”).

bearer is the Clan's responsibility, not the Court's," *Sato v. Ngerchelongs State Assembly*, 7 ROP Intrm. 79, 81 (1998), and as always, we encourage the parties to work together to resolve any remaining disputes outside the courtroom.<sup>3</sup>

### CONCLUSION

[¶ 8] The judgment of the Trial Division is **AFFIRMED**.

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<sup>3</sup> It is clear that the parties had the right to seek declaratory relief in the Trial Division regarding their dispute over the chief title. *See* 14 PNC § 1001 ("In a case of actual controversy within its jurisdiction, any appropriate court of the Republic, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought."); *Kiuluul v. Elilai Clan*, 2017 Palau 14 ¶¶ 10-15. However, the time may be ripe for this Court to reassert, as a prudential matter, its ability to decline to determine those internal clan title disputes that are not connected to specific disputes over land or an exercise of legal authority, and which cannot be satisfactorily resolved through litigation. *See, e.g., Matlab v. Melimarang*, 9 ROP 93, 97 (2002) (suggesting that "the issuance of declaratory relief concerning the seating of a title holder is at odds with this Court's repeated insistence that the selection of a title bearer is not the courts' responsibility"), *overruled on other grounds by Kiuluul*, 2017 Palau 14 ¶ 6.