

IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

FILED *th*

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SUPREME COURT
OF THE
REPUBLIC OF PALAU

GREGORIO MARBOU,
Appellant,
v.
LEON O. TELLEI,
Appellee.

Cite as: 2022 Palau 1
Civil Appeal No. 21-017
Appeal from Civil Action No. 19-054

Decided: February 14, 2022

Counsel for Appellant
Counsel for Appellee

Johnson Toribiong
Raynold B. Oilouch

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice
JOHN K. RECHUCHER, Associate Justice
ALEXANDRO C. CASTRO, Associate Justice

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

OPINION

PER CURIAM:

[¶ 1] This case arises out of a dispute over land known as *Buuch*. *Buuch* was previously owned by Mariano Tellei, who died in late 2018. In the process of settling his estate, both decedent’s son—Appellee Leon O. Tellei (“Tellei”)—and decedent’s brother—Appellant Gregorio Marbou (“Marbou”)—claimed ownership of the land. The Trial Division held that Tellei inherited *Buuch* under Palauan custom and that Marbou failed to prove his ownership claim.

[¶ 2] On appeal, Marbou abandons his ownership claim and instead argues that he has a “use right” to live on the land and use the land for farming and raising animals. This argument is forfeited, however, because Marbou failed

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to raise it in the Trial Division. *See, e.g., Ochedaruchei Clan v. Oilouch*, 2021 Palau 33 ¶ 11 (“No axiom of law is better settled than that a party who raises an issue for the first time on appeal will be deemed to have forfeited that issue.”).

[¶ 3] Even if we were to consider the merits of Marbou’s “use right” argument, we would reject his argument. The Trial Division did not find Marbou’s testimony to be reliable, and we are in no position to second-guess that factual finding. *See, e.g., Esuroi Clan v. Roman Tmetuchl Family Trust*, 2019 Palau 31 ¶ 12 (“It is not the appellate panel’s duty to reweigh the evidence, test the credibility of witnesses, or draw inferences from the evidence.”).

[¶ 4] Because Marbou forfeited his only argument on appeal and, in any event, there is no clear error in the Trial Division’s decision awarding *Buuch* to Tellei, we **AFFIRM**.

SO ORDERED, this 14th day of February, 2022.


OLOIAIS NGIRAIKELAU
Chief Justice


JOHN K. RECHUCHER
Associate Justice


ALEXANDROC CASTRO
Associate Justice