

IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

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SUPREME COURT
OF THE
REPUBLIC OF PALAU

MARK RUDIMCH,
Appellant,
v.
**IVAN RUDIMCH, DEAN RUDIMCH, EYOS RUDIMCH,
SEAN LEE RUDIMCH, SHIRLEY RUDIMCH, EUNICE
RUDIMCH, and EVELYN RUDIMCH,**
Appellees.

Cite as: 2024 Palau 13
Civil Appeal No. 23-021
Appeal from Civil Action No. 20-052

Decided: April 22, 2024

Counsel for Appellant James W. Kennedy
Counsel for Appellee Salvador Remoket

BEFORE: DANIEL R. FOLEY, Associate Justice, presiding
ALEXANDRO C. CASTRO, Associate Justice
KEVIN BENNARDO, Associate Justice

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

OPINION¹

PER CURIAM:

[¶ 1] In 1978, Isidoro Rudimch opened a business checking account with Bank of Hawaii, named “Koror Wholesalers Collection” (“the Account”). Isidoro passed away in 1999 and his estate was probated. In a May 9, 2023 Judgment and Decision, the Trial Division held that the Account was part of the business trust created for Isidoro’s business assets. Appellant Mark

¹ Although Appellant requests oral argument, we resolve this matter on the briefs pursuant to ROP R. App. P. 34(a).

Rudimch maintains that he became a co-owner of the Account prior to Isidoro's death, and that as a result, Mark now owns the Account.

¶ 2] For the reasons set forth below, we **AFFIRM**.

BACKGROUND

¶ 3] This case already climbed up the appellate ladder once. In *Rudimch v. Bank of Hawaii*, 2022 Palau 10, this Court reversed the trial court's decision granting summary judgment. Mark's affidavit, in which he stated that he became a co-owner of the Account, created a genuine issue of material fact. We remanded for the trial court to resolve that factual dispute.

¶ 4] A two-days trial was held on February 7 and February 8, 2023. Mark testified that, sometime in the 1990s, Isidoro gave Mark signature authority over the Account, with the clear mutual understanding that Mark was then a co-owner of the Account. Mark further stated that he signed a signature card at Bank of Hawaii's Koror branch in connection with this transaction and that, after becoming a co-owner, he transacted freely on the Account. On the other hand, Bank of Hawaii's Koror branch manager, Ives Morei, testified that bank records do not show a change of ownership before Isidoro's death.

¶ 5] According to the evidence introduced at trial, the Account was primarily used to deposit the rental proceeds received from land leased to KSPLA, which in turn subleased it to Bank of Hawaii. Mark conducted transactions on the Account before and after Isidoro's death, and was the only one to do so until 2010. On April 11, 2000, Mark and his brother Ivan Rudimch were added as co-owners to the Account and each of them signed a signature card to this effect. At that time, the Account was listed as a "sole proprietor" account with Isidoro listed as the sole owner. Certain children of Isidoro were later allowed access to the Account through signature cards on file with the Bank.

STANDARD OF REVIEW

¶ 6] We review the trial court's findings of fact for clear error. *Kiuhul 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

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). Additionally, we will not “reweigh the evidence, test the credibility of witnesses, or draw inferences from the evidence.” *Takeo v. Kingzio*, 2021 Palau 25 ¶ 6.

DISCUSSION

[¶ 7] Mark’s Opening Brief presents three arguments we consider in turn. First, Mark challenges the trial court’s finding that he did not become a co-owner of the Account before Isidoro’s death and argues that because Bank of Hawaii purges all superseded records every seven years, the Bank had no way of knowing whether Mark gained authority over the Account prior to Isidoro’s death.

[¶ 8] “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). “Absent extraordinary circumstances, this Court may not set aside a trial court’s credibility determination.” *Oiwerrang Lineage v. J. Techur*, 2022 Palau 4 ¶ 11.

[¶ 9] The trial court found that the bank records do not show a change of ownership before Isidoro’s death, and the record contains sufficient evidence to support this decision. The 2000 signature card designates the Account as a sole proprietorship, and names Isidoro as the previous owner of the Account. Mark signed this signature card with his brother Ivan at the time, giving them both authority over the Account. Although he alleges that the signature card was blank when he signed it, the trial court was entitled to find this testimony incredible, especially in light of Morei’s testimony that it is not Bank of Hawaii procedure to have clients sign blank signature cards. Therefore, this appeal fails to present any unreasonable factual findings or extraordinary circumstances that warrant overturning the court’s credibility determinations

and we are not “left with a definite and firm conviction that a mistake has been made.” *Imetuker*, 2019 Palau at ¶ 1.²

[¶ 10] Second, Mark maintains that the trial court applied a heightened standard of proof where it determined that Isidoro’s actions were not “unequivocally clear as to allow a finding that the Account was a valid gift” to him. We have repeatedly and consistently held that we will not consider “claims brought before us that are not well developed and supported by facts on the record or law.” *Aderkeroi v. Francisco*, 2019 Palau 29 ¶ 12. A close reading of the trial court’s decision makes clear that the trial court did not apply a heightened standard of proof, but merely analyzed the elements of a valid gift under common law before determining these elements were not met, and that as such, Isidoro did not gift the Account to Mark. The trial court did not err in doing so.

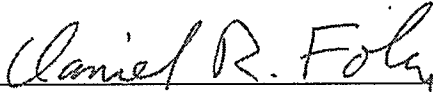
[¶ 11] Third and finally, Mark avers that the trial court should have awarded the Account to Isidoro’s Estate and not the KR Business Trust. The trial court determined that the Account and the Sublease Agreement to Bank of Hawaii are part of the business trust because the Account was operated as part of the business and was named Koror Wholesalers Collections Account. Mark states that the Account has no connection with Koror Wholesalers except for the name, but otherwise fails to prove that the funds in the Account were Isidoro’s individual and separate property. As such, the trial court did not clearly err in awarding the Account to the KR Business Trust.

CONCLUSION

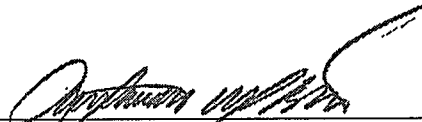
[¶ 12] We **AFFIRM** the Trial Division’s judgment.

SO ORDERED, this 22nd day of April 2024.

² Mark also points to other evidence which allegedly support his position: his own testimony, a 2000 letter from Bank of Hawaii which purported to list all of the bank accounts solely owned by Isidoro but did not list the Account, and the fact that the Account was never added to the estate inventory. The trial court adequately explained why it discounted this evidence, and none of it directly proves that Mark became a co-owner.



DANIEL R. FOLEY
Associate Justice, presiding



ALEXANDRO C. CASTRO
Associate Justice



KEVIN BENNARDO
Associate Justice