

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

**GODWIN ITO, representing the claim of Omkedelad Okelad
Ito,
Appellant,
v.
NGESILIONG CLAN,
*Appellee.***

Cite as: 2026 Palau 01
Civil Appeal No. 25-001
Appeal from Land Court Case No. LC/R 19-00139

Decided: January 9, 2026

Counsel for Appellant J. Uduch Sengebau Senior
Counsel for Appellee Johnson Toribiong

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice, presiding
FRED M. ISAACS, Associate Justice
KATHERINE A. MARAMAN, Associate Justice

Appeal from the Land Court, the Honorable Senior Judge Rose Mary Skebong, presiding.

OPINION

PER CURIAM:

[¶ 1] Appellant Omkedelad Ito, represented by her son, Godwin Ito, challenges the Land Court’s December 30, 2024, Adjudication and Determination in favor of Appellee Ngesiliong Clan.¹ Ito raises multiple arguments, none of which were preserved below, relating to the Court’s independence, conduct of the trial, rulings on admission and exclusion of

¹ Unless otherwise indicated, Appellant Omkedelad Ito shall be referred to throughout this opinion as Ito, her son and representative, Godwin Ito, as Godwin, and Appellee Ngesiliong Clan as Ngesiliong.

evidence, violations of court rules, and Ito's right to due process. *See* Appellant's Brief at 5.

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

BACKGROUND

[¶ 3] This appeal stems from a Land Court decision awarding Lots R 616, R 617, R 618, R 344, and R 491, as part of property known as *Ngiraim*, to Ngesiliong Clan. Competing claims by Luwill Clan,³ Baules Sechelng,⁴ Ito,⁵ and the Children of Etibek,⁶ were ultimately rejected. The Land Court found that Ngesiliong Clan's proof of ownership, a printed page of land records maintained by the Land Court Registry listing properties awarded to Ngesiliong Clan that included land *Ngiraim* with Etibek as the registered Tochi Daicho owner, "clearly outweigh[ed] the scant evidence presented by the other claimants." *See In the matter of the ownership of eight (8) lots located in Ngerdelolk Hamlet of Peleliu State et al.*, LC/R 19-00139, 15 (2024).

STANDARD OF REVIEW

[¶ 4] We review matters of law de novo, findings of fact for clear error, and exercises of discretion for abuse of that discretion. *Obechou Lineage v. Ngeruangel Lineage of Mochouang Clan*, 2024 Palau 2. Under the clear error standard, we will not reverse the Land Court's factual determinations unless the findings so lack evidentiary support in the record that no reasonable trier of fact could have reached the same conclusion. Absent factual disputes, issues of procedural due process are purely questions of law subject to de novo review. *Lewiil Clan v. Edaruchei Clan*, 13 ROP 62 (2006).

² We dispense with oral argument inasmuch as we find the parties' briefs and the trial record sufficient to address the issues presented on appeal. ROP R. App. P. 34(a).

³ As is relevant here, Lot R 616 only.

⁴ As is relevant here, Lot R 616 only.

⁵ Lots R 616, R 617, R 618, R 344, R 491.

⁶ Lots R 616, R 617, R 618, R 344, R 491.

DISCUSSION

[¶ 5] Ito presents five new issues on appeal to support her request for reversal or remand. The first is whether the Land Court violated Rule 2 of its procedural rules and the constitutional guarantee of judicial independence by conducting an expedited hearing to clear lands for the United States–Palau joint-use airport project. Appellant’s Brief at 4. The second is whether the Land Court denied Ito due process by proceeding with confused and unrepresented claimants who did not understand the nature of the hearing or their burden of proof. *Id.* The third issue is whether the Land Court erred in accepting testimony and documents from Mr. Nace Soalabai, who lacked authority to represent Ngesiliong, and by relying on that unauthorized evidence to determine ownership. *Id.* The fourth issue is whether the Land Court committed reversible error by failing to take judicial notice of the 1995 sworn Affidavit of Ito, which was part of its own record and directly established Ito’s claim as Etibek’s heir. *Id.* The fifth and final issue is whether the Land Court’s reliance on Ngesiliong Exhibit 1—contradicted by multiple official records and introduced by an unauthorized individual—was arbitrary. *Id.* None of these issues were raised in the Land Court proceedings.

[¶ 6] Although none of the issues, including the due process violation, were raised below, we place grave weight on the denial of due process claims. Thus, we pause here to address Ito’s due process claim distinctly. In *Ngeruangel Clan v. Errich*, we held that there was no due process violation when the Appellant attended the hearing, made an opening statement, called a witness, and left the hearing early without cross examining a witness. *See Ngeruangel Clan v. Errich*, 15 ROP 96 (2008). Because the Appellant made an appearance, asserted its claim to the land, and was afforded a full and fair opportunity to present its claim at the hearing, neither a substantive nor procedural due process claim could lie. *See id.* The same is true here. The Land Court granted the parties, including Ito, an almost two-month long continuance from the initial pre-hearing, conducted a hearing where each litigant was afforded a full and fair opportunity to present evidence, and even offered parties the opportunity to visit the contested property. They declined. The Court ultimately issued a decision weighing the evidence presented, making factual findings, and entering judgment based on those findings. One of the litigants, Ito, exercised her right of appeal. No denial of due process occurred.

[¶ 7] Our opinion does not reach the merits because issues not raised or preserved below are waived. *See Rudimch v. Rebluud*, 21 ROP 44 (2014) (stating that arguments raised for the first time on appeal will not be considered). More precisely, arguments not raised in the Land Court proceedings are deemed waived on appeal. *Kumer Clan/Lineage v. Koror State Pub. Lands Auth.*, 20 ROP 102 (2013). The waiver rule is particularly important in land litigation because in order to bring stability to land titles and finality to disputes, parties to litigation are obligated to make all of their arguments, and to raise all of their objections in one proceeding. *Id.*

[¶ 8] To be sure, the waiver rule has certain limited exceptions. The Court may decline to deem an issue waived where: (1) addressing the issue would prevent the denial of a fundamental right, especially in criminal cases where the life or liberty of an accused is at stake; or (2) the general welfare of the people is at stake. *Kumer Clan/Lineage v. Koror State Pub. Lands Auth.*, 20 ROP 102 (2013). The public welfare exception applies only when the case itself implicates the public welfare—not where the only interest at stake is the right of a civil litigant to recover. *Id.* To invoke the constitutional exception to the waiver rule, a litigant must show something more than the existence of a fundamental right, such as the risk of losing life or liberty. *Id.* Neither a fundamental right nor the public welfare is implicated here: this case resolves mere competing private property claims. *See Fritz v. Materne*, 23 ROP 12 (2015) (stating that a claim asserting an interest in property does not fall within any of the exceptions). As such, the waiver rule exception does not apply here.

[¶ 9] Even if we were to momentarily set aside the waiver rule and proceed to entertain Ito’s arguments, we would still reject them because she failed to address the merits of or challenge the Land Court’s determination. *See Ulechong v. Palau Pub. Utils. Corp.*, 13 ROP 116, 120 (2006) (“Regardless, in light of Appellant’s failure to address the merits of the trial court’s decision, any takings may be rejected summarily.”).

[¶ 10] Here, the Land Court determined that Ngesiliong owned the subject lots because the evidence of ownership it presented outweighed the scant evidence presented by the claimants. Moreover, in rejecting Ito’s claim, the Court found the claim to be without merit stating that, rather than supporting Ito’s claim, Godwin’s testimony “proves that Omkedelad’s claim of ownership

based solely on her status as Etibek’s daughter is without merit” *In the matter of the ownership of eight (8) lots located in Ngerdelolk Hamlet of Peleliu State et al.*, LC/R 19-00139, 14 (2024). Fatally, Ito did not challenge the Land Court’s determination.

[¶ 11] Rather than addressing the merits of the Land Court’s decision as noted above, Ito attacked the Land Court, as she claimed, for accelerating the hearing to accommodate the U.S.–Palau joint-use airport project. In doing so, she argued, it abdicated its independence, violated its own rules, deprived Appellant of due process, and made several erroneous evidentiary rulings. None of these arguments addressed the merits of the Land Court’s finding in favor of Ngesiliong or the reasons for the rejection of Ito’s claim. In short, although Ito’s brief is riddled with multiple issues, not a single one challenged the Land Court’s reasoning or the evidence supporting its decision. Under these circumstances, we are left with no other option but to affirm the Land Court’s determination.

CONCLUSION

[¶ 12] For the foregoing reasons, we **AFFIRM** the Land Court’s decision. **SO ORDERED**, this 9th day of January 2026.