



By order of the Court, Associate Judge Joseph N. Camacho

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FOR PUBLICATION



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CNMI SUPERIOR COURT  
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IN THE SUPERIOR COURT  
FOR THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

THE ESTATE OF	)	CIVIL ACTION NO. 18-0197
ROSA FLORES NORITA	)	
	)	ORDER FINDING ROSA LANIYO
	)	NORITA FAILED TO PROVE BY A
	)	PREPONDERANCE OF THE EVIDENCE
	)	THE FACTORS OF THE CAROLINIAN
	)	CUSTOM OF <i>MWEI MWEI</i> THEREFORE
	)	SHE IS NOT A CULTURALLY
	)	ADOPTED CHILD OF HER
	)	BIOLOGICAL GRANDMOTHER
	)	
	)	
	)	
	)	

I. INTRODUCTION

**THIS MATTER** came before the Court for an evidentiary hearing held on June 3, 2019 and June 4, 2019, for the limited purpose of considering claimant Rosa Laniyo Norita’s “*Mwei Mwei*” heirship claim under Carolinian customary law.<sup>1</sup> Rosa Laniyo Norita seeks to reopen the estate to recall previously distributed estate assets for re-distribution under a theory of extrinsic fraud. Former estate administrator and heir, Nicanor Flores Norita, appeared with his attorneys, Joey P. San Nicolas and Charles Reyes, Jr. Heir Juan Flores Norita appeared with his attorney, Rosemond Santos. Heir Jacinto Taman Flores did not appear, but was represented by his attorney Brien Sers

<sup>1</sup> A “*mwei mwei*” is an individual adopted through Carolinian custom for inheritance purposes. Elizabeth Barrett Ristroph, *The Survival of Customary Law in The Northern Mariana Islands*, 8 CHI.-KENT J. INT’L & COMP. L. 32, 47 (2008).

1 Nicholas, who appeared throughout most of the proceedings. Also present with counsel was  
2 claimant Rosa Laniyo Norita, represented by her attorney Stephen Nutting.

## 3 II. PROCEDURAL BACKGROUND

4 On June 15, 2018, Nicanor Flores Norita (“Nicanor”) filed a Petition for Letters of  
5 Administration and for his appointment as administrator of his mother's estate, the Estate of Rosa  
6 Flores Norita (“Nana Rosa”). The June 15, 2018, Petition for Letters of Administration listed  
7 Nicanor and his brother, Juan Flores Norita (“Juan”), as the heirs.

8 Nicanor, in his capacity as administrator, originally omitted Jacinto Taman Flores  
9 (“Jacinto”) as an heir of the estate, despite having previously listing Jacinto as his mother’s adopted  
10 son in the Estate of Visitacion Rangamar Flores, Civil Case No. 03-0228.<sup>2</sup>

11 In response to the omission, on September 11, 2018, Jacinto filed a Notice of Appearance,  
12 Request for Service, and Notice of Claim as an Heir claiming he was a *mwei mwei* heir of the Estate  
13 of Rosa Flores Norita. On October 31, 2018, Juan, through his attorney, filed a notice of acceptance  
14 of Jacinto’s *mwei mwei* heirship claim.

15 On January 17, 2019, administrator Nicanor filed a Petition for Final Distribution in the  
16 Estate of Rosa Flores Norita, Civil Case No. 18-0197. The listed heirs of Rosa Flores Norita’s  
17 estate were Nicanor, his brother Juan, and *mwei mwei* Jacinto.

18 On February 15, 2019, the Probate Court issued an Order and Decree of Final Distribution  
19 and Order to Close Bank of Guam Account. The order made a full distribution of all assets in the  
20 Estate of Rosa Flores Norita, discharged the estate administrator Nicanor and his attorney<sup>3</sup> and  
21 closed the estate.

22  
23 <sup>2</sup> Nicanor Flores Norita was the administrator of both the Estate of Visitacion Rangamar Flores, Civil Case No. 03-0228  
and the Estate of Rosa Flores Norita, Civil Case No. 18-0197.

24 <sup>3</sup> At the time, Michael W. Dotts, Esq.

1 On April 17, 2019, two months after the estate’s closure, alleged heir-claimant Rosa Laniyo  
2 Norita (“Rosie”), a non-party to the closed probate proceeding, filed her Notice of Appearance and  
3 Motion to Reopen the Estate and for the Issuance of an Order to Show Cause as to Why the Final  
4 Order of Distribution Should Not Be Vacated, and the Administrator Removed and That an Order  
5 to Disgorge Funds Wrongfully Distributed to the Heirs Under the Final Order. The motion asserted  
6 a claim to estate assets based on allegations that Nana Rosa adopted Rosie pursuant to the  
7 Carolinian custom of *mwei mwei*.

8 On May 24, 2019, following a hearing held on May 23, 2019, the Court issued an Order  
9 Partially Granting Motion to Reopen the Estate for Limited Purposes. The order partially granted  
10 Rosie’s motion *for the limited purpose of determining the validity of the heirship claims of Rosa*  
11 *Laniyo Norita* (“Rosie”) as the purported adopted daughter of decedent, Rosa Flores Norita (“Nana  
12 Rosa”), through the Refaluswasch<sup>4</sup> (Carolinian) custom of *mwei mwei*.

13 Nicanor and Juan opposed the reopening of their mother’s estate. Jacinto did not oppose the  
14 final distribution plan proposed and approved by Nicanor, and now, through counsel, but without an  
15 appointed guardian ad litem, Jacinto states that he is not taking a position on Rosie’s post-probate  
16 motions.<sup>5</sup>

17 The Court, having heard all of the testimony and having examined the proofs offered by the  
18 parties, including the filings on record, oral arguments, and applicable law, now enters the  
19 following order.

20  
21  
22 <sup>4</sup> The term “Carolinian” is often referred to a group of individuals who are descendants of the original people who  
migrated from the Caroline Islands to the Mariana Islands. “Refaluswasch” (Repaghuluwósch) is a Carolinian word  
defined as People of the Central Caroline Islands; people of the reef. CAROLINIAN-ENGLISH DICTIONARY 145 (1991).

23 <sup>5</sup> Jacinto is an adult with special needs. Jacinto through his counsel takes no position as to whether Rosie is a *mwei*  
24 *mwei* and whether to reopen the probate. However, Jacinto reserves the right to oppose and object if the Court should  
reopen the probate and Rosie seeks to disgorge any estate funds distributed to Jacinto.

1           **III. EVIDENCE RECEIVED IN COURT AND THE CREDIBILITY OF THE**  
2   **WITNESSES**

3           Neither party introduced tangible evidence – such as a will, a copy of the obituary, letters,  
4 photographs, etc. Instead, each party only produced witnesses, seven (7) in total, that gave sworn  
5 testimony on the issue of Rosie’s *mwei mwei* claim.

6           **A. Witnesses in Support of Rosa Laniyo Norita’s (“Rosie”) Claim that She is a *Mwei Mwei***  
7   **Child of her Grandmother Rosa Flores Norita (“Nana Rosa”).**

8           The Court heard sworn testimony from alleged heir claimant Rosie, Rosie’s son Jonathon  
9 Norita Aguon (“Jonathon”), Rosie’s brother Juan Laniyo Norita (“Juan L.”), Rosie’s youngest  
10 brother Dennis Laniyo Norita (“Dennis”), and Rosie’s former neighbor and childhood friend Leonisa  
11 Somol (“Leonisa”) – all of whom testified in support of Rosie’s *mwei mwei* claim.<sup>6</sup>

12           Rosie testified that her natural grandparents, Nana Rosa and Baldomero Norita (“Tata  
13 Baldomero”), raised her. Rosie further testified that she had been born prematurely and Nana Rosa  
14 visited her every day while Rosie was at Torres Hospital. Rosie also testified that her biological  
15 father Juan brought her to Nana Rosa after she was released from the hospital. When her natural  
16 parents moved to Falughulo, located south of the village of San Jose, Saipan, Rosie testified that  
17 she moved into a small house with Nana Rosa and Tata Baldomero, while her natural parents and  
18 her nine (9) other siblings lived in a bigger house about two (2) feet away. Rosie testified that she  
19 rarely, if ever, spent the night at the home of her natural parents. According to Rosie, she only left  
20 Falughulo to live with Nicanor Flores Norita after she alleged her natural father molested her at the

21 \_\_\_\_\_  
22 <sup>6</sup> Patricia Laniyo Norita, one of Rosie’s siblings, did not testify, but she did file a declaration **supporting** her sister’s  
23 *mwei mwei* heirship claim. Juanita Norita Cruz, another of Rosie’s siblings, also did not testify, but submitted a  
24 declaration **denying** that Rosie was culturally adopted as a *mwei mwei*. Rosie’s siblings, Alejandro Norita, Estanislao  
Norita, Lorenzo Norita, Joseph Norita, and Rodney Norita, **did not testify or submit declarations on the issue of  
Rosie’s claims as a *mwei mwei* of Nana Rosa.** Because these declarations were not received as evidence and the  
witnesses were not subject to cross examination, the Court gives these declarations no weight in the determination of  
the issue.

1 age of fifteen.<sup>7</sup> Even after Rosie left Falughulo, she testified that Nana Rosa would come and visit  
2 her at Nicanor’s house in the village of Chalan Kanoa, Saipan almost every day. Rosie also testified  
3 that, after she became an adult and married, she would occasionally visit Nana Rosa – but only  
4 when Juan was not around. Rosie stopped visiting Nana Rosa after Rosie moved away from  
5 Saipan.<sup>8</sup>

6 Rosie testified that her uncle Nicanor treated her special – as a *kkiriida*. A *kkiriida* is defined  
7 as an “[e]specially loved and pampered female child.” CAROLINIAN-ENGLISH DICTIONARY 87  
8 (1991).<sup>9</sup>

9 Rosie conceded that her biological siblings and cousins (the children of Nicanor) do not give  
10 her deference as an elder, equal to the rank and status of Nicanor, Juan, and Jacinto.

11 Rosie’s son Jonathon testified that he stayed with, and cared for, Nana Rosa prior to her  
12 death. Jonathon testified that he knew his mother Rosie had been raised by Nana Rosa, but stated  
13 that he had never been told that his mother was a *mwei mwei*. Jonathon testified that though he  
14 gives due respect to his elders Nicanor and Juan, he does not like them. Jonathon also testified that  
15 Nicanor called him at his place of work, the CNMI Department of Corrections, to find out Rosie’s  
16 bank account and contact information so that Nicanor can include Rosie as an heir to the estate.

17 Rosie’s brother Juan L. testified that Rosie did not grow up with him in the house of Juan  
18 and his wife Crispina, but rather stayed with Nana Rosa and Tata Baldomero. Juan L. did not recall  
19 Rosie spending even one night in the home of Juan and Crispina. Unlike his nephew Jonathon, Juan  
20 L. remembers being told by his mother that Rosie was the *mwei mwei* child of Nana Rosa and Tata

21 \_\_\_\_\_  
22 <sup>7</sup> Rosie testified that, when she was a teenager, she accused her father, Juan, of sexually abusing her. Rosie’s  
23 accusations resulted in the arrest of Juan. Juan was acquitted of these charges. *See Commonwealth v. Norita*, No. 84-21  
(Trial Ct. 1985).

24 <sup>8</sup> Rosie testified that she currently lives in the United States Mainland and she came back to Saipan to pursue her claim  
as a *mwei mwei*.

<sup>9</sup> “*kkiriida*,” is spelled “*kirida*,” in Chamorro. CHAMORRO-ENGLISH DICTIONARY 109 (1975) (“*kiridu*” for males).

1 Baldomero.

2 Rosie's youngest brother Dennis gave similar testimony to that of his older brother Juan L.  
3 Dennis testified that Rosie was a *mwei mwei*.

4 Rosie's childhood friend Leonisa testified that she grew up with her family in Falughulo.  
5 She testified that her home was very close to the home of Nana Rosa and Tata Baldomero, and that  
6 she could see the Norita's house from her front yard. She testified that she had been told by her  
7 mother that Rosie was a *mwei mwei* child of Nana Rosa and Tata Baldomero. On cross  
8 examination, Leonisa testified that everyone knew that Rosie was *mwei mwei* and that it "is not a  
9 secret." Leonisa testified that Nana Rosa loved all of her biological grandchildren, but that Rosie  
10 was treated differently than the others.

11 **B. Witnesses Opposing Rosa Laniyo Norita's ("Rosie") Claim that She is a *Mwei Mwei***  
12 **Child of her Grandmother Rosa Flores Norita ("Nana Rosa").**

13 Juan and his brother Nicanor, the estate administrator, testified in opposition to Rosie's  
14 *mwei mwei* claim.

15 Juan testified that he and his wife Crispina Laniyo Norita had ten (10) children, including  
16 their eldest daughter Rosie. Juan denied giving consent to his biological mother, Nana Rosa, to  
17 culturally adopt Rosie in any capacity. Instead, Juan testified that "[he] brought [Rosie] home to my  
18 wife Crispina," and that they raised Rosie in their home. Juan conceded that he and his wife lived  
19 with his mother, Nana Rosa, when Crispina gave birth to Rosie in 1961. Juan testified that at some  
20 point he moved his family from San Jose village to Falughulo. Juan testified that he, his wife, and  
21 his children lived in the big house, while Nana Rosa and Tata Baldomero lived about two (2) feet  
22 away in another smaller house. Rosie would often stay or sleep at Nana Rosa's house next door.  
23 Further, Juan testified that he gave all of his ten (10) children, including Rosie, \$3,000 each when  
24 he received his share of the money after the final distribution – which he was not legally obligated

1 to do.

2           Additionally, Nicanor testified that he never treated Rosie as a sibling but rather treated her  
3 as his niece. Nicanor testified that he did not ask Jonathon for Rosie's contact information and  
4 stated that he only called Jonathon to find out whether Juan was still in jail.<sup>10</sup>

5           Additional testimonies were also heard that Jacinto, the biological nephew of Nana Rosa,  
6 was born with special needs, and, as a result, was raised by Nana Rosa as her own son. According  
7 to testimony, as Jacinto grew into adulthood, Jacinto would wander away from Nana Rosa's house  
8 and stay at the homes of other people. However, Nana Rosa, or others she would instruct, would  
9 always track Jacinto down and bring Jacinto back to Nana Rosa's home.

10           **C. Credibility of the Witnesses.**

11           The Court finds that all of the witnesses presented by both parties have credibility issues and  
12 strong biases. Because neither party produced a non-biased witness or any tangible evidence, and  
13 the parties disagree upon almost all of the pertinent facts, the Court must analyze the arguments  
14 presented by the parties and weigh the credibility of the witnesses to determine whether Rosie is a  
15 *mwei mwei*.

16           1. Credibility Issues of Witnesses testifying in Support of Rosa Laniyo Norita's (Rosie)  
17           *Mwei Mwei* Claim.

18           Jonathon is Rosie's son and dislikes Juan and Nicanor. Jonathon was also born twenty years  
19 after Rosie's alleged adoption and, therefore, lacks first-hand personal knowledge of the  
20 circumstances surrounding Rosie's alleged adoption. Jonathon also testified that he had never been  
21 told that his mother was a *mwei mwei* of Nana Rosa.

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<sup>10</sup> At the time of the alleged phone call, Juan was in jail on a separate sexual assault matter. *See Commonwealth v. Norita*, No. 18-0014 (NMI Sup. Ct. Jan. 16, 2019).

1 Juan Laniyo Norita and Dennis Laniyo Norita are Rosie's younger brothers, and Leonisa  
2 was Rosie's childhood friend. Like Rosie's son Jonathon, they lack first-hand personal knowledge  
3 of the circumstances surrounding Rosie's alleged adoption and are biased in favor of Rosie because  
4 they are all affectionally close to Rosie.

5 Rosie herself has a financial interest in claiming to be a *mwei mwei* child of Nana Rosa  
6 because, as a *mwei mwei*, she would be entitled to One-Fourth (¼) of the approximately  
7 \$1,325,000.00 in Nana Rosa's estate.<sup>11</sup> Additionally, Rosie's sexual abuse allegation gives her  
8 reason to dislike Juan. Finally, Rosie testified that her own siblings and cousins (children of  
9 Nicanor) do not give her any deference as an elder, equal in status and rank of Nicanor, Juan, and  
10 Jacinto.

11 2. Credibility Issues of Witnesses testifying in Opposition of Rosa Laniyo Norita's  
12 ("Rosie") *Mwei Mwei* Claim.

13 Nicanor, as administrator of Nana Rosa's estate, originally omitted Jacinto as a *mwei mwei*  
14 brother. This indicates that Nicanor, as an administrator, has a history of denying the claims of a  
15 rightful *mwei mwei* on at least one occasion.

16 Rosie's sexual abuse allegation against Juan gives Juan reason to dislike Rosie, even though  
17 Juan was eventually acquitted of the sexual abuse charges. It is also worth noting that Juan gave all  
18 of his ten (10) children, including Rosie, \$3,000.00 each from Juan's share of the final distribution.

19 Juan and Nicanor also have a financial interest in denying that Rosie is a *mwei mwei*. If  
20 Rosie is found to be a *mwei mwei*, they would have to divide Nana Rosa's estate among four people  
21 instead of three.

22 \_\_\_\_\_  
23 <sup>11</sup> Nana Rosa's estate is a sub-estate of *the Estate of Visitacion Rangamar Flores* (Case No. 03-0228), which is itself a  
24 sub-estate of *the Estate of Maria Mangabao* (Case No. 03-0021). As part of judgment against the CNMI Government  
for land compensation taken for public purpose, *the Estate of Maria Mangabao* received \$19.2 million dollars. As an  
heir of Maria Mangabao, Visitacion Rangamar Flores received \$5.3 million.



1           3. The Court Finds that Juan Flores Norita and Nicanor Flores Norita’s Testimonies  
2           Against Rosa Laniyo Norita’s (“Rosie”) *Mwei Mwei* Claim More Credible.

3           Though each of the witnesses have substantial credibility issues, the Court finds the  
4 testimony against Rosie’s *mwei mwei* claim to be more credible than the testimony in support of  
5 Rosie’s claim. The Court makes such a finding because: Juan, the natural father of Rosie, was the  
6 only witness who had first-hand knowledge and recollection of the events that occurred after  
7 Rosie’s release from the hospital; Rosie conceded that her biological siblings and cousins (the  
8 children of Nicanor) do not give her deference as an elder equal to the rank and status of Nicanor,  
9 Juan, and Jacinto; and Rosie allowed Nicanor to handle Nana Rosa’s probate without her input as  
10 the only alleged female “daughter” of Nana Rosa – which would be very unusual if Rosie was a  
11 *mwei mwei* because, pursuant to Carolinian custom, Carolinian daughters have a heightened say in  
12 the probate of their parents. All of these findings persuade the Court that Nana Rosa did not adopt  
13 Rosie as a *mwei mwei*.

14           Furthermore, the testimony of the witnesses indicates that, at best, Rosie was the *kkiriida* of  
15 Nana Rosa – Nana Rosa’s favorite grandchild. Though *kkiriida* may share similar features with a  
16 *mwei mwei*, such as a close bond and heighten affections, there are subtle yet significant  
17 distinctions between the two relationships. A *mwei mwei* adoption results in the child being socially  
18 elevated to the status equal to a natural child of the adopting parent – but being a *kkiriida* does not.

19           Furthermore, though a *kkiriida* may also be the *mwei mwei* child of the adoptive parent, that  
20 is not always the case. *Mwei mwei* entails a culturally recognized status and inheritance rights,  
21 while *kkiriida* does not. In summation, *kkiriida* and *mwei mwei* are two entirely separate  
22 relationships that are proven with different facts.

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1 IV. DISCUSSION

2 For the purposes of intestate succession, “[u]nless the family consents or agrees otherwise, a  
3 person adopted by law or custom into a Carolinian family shall be treated [...] as if he were born  
4 into the Carolinian family.” 8 CMC § 2908.

5 The Commonwealth Supreme Court in *In re Estate of Olopai*, 2015 MP 3, recognized eight  
6 (8) factors that Commonwealth Courts may consider when determining whether a *mwei mwei*  
7 adoption occurred. These factors are:

- 8 (1) whether the natural parents consented to the adoption, (2) the child's age at  
9 the time of adoption, (3) whether the adoption was between relatives, (4) whether  
10 women initiated the adoption, (5) whether the adopting parent was married, (6)  
11 whether the community was aware of the adoption, (7) whether the natural parent  
12 reclaimed the adoptee, and (8) whether the adoptee was the natural parent's only  
13 child.

14 *In re Estate of Olopai*, 2015 MP 3 ¶ 15. These factors are not exclusive and, generally, “[n]o  
15 individual factor is dispositive; rather, the trial court must consider the totality of the  
16 circumstances.”<sup>12</sup> *Id.* “The party claiming to be a *mwei mwei* adoptee bears the burden of proof by a  
17 preponderance of the evidence.” *Id.*

18 **A. Whether the Natural Parents Consented to The Adoption.**

19 For *mwei mwei* adoption to be found, the Court must find that the natural parents gave their  
20 consent to the adoption. Because “the adoptive and natural parents may be long-since deceased by  
21 the time an estate is probated,” consent may be proven by circumstantial evidence. *In re Estate of*  
22 *Olopai*, 2015 MP 3 ¶ 16. Some examples of circumstantial evidence are: whether the alleged

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23 <sup>12</sup> However, it is worth noting that though the *Olopai* Court stated that none of the eight (8) factor are dispositive, the  
24 *Olopai* Court also stated in the previous paragraph that “[u]nder *mwei mwei*, ‘the adopting parents propose to adopt a  
child and the natural parents *must* give their consent.’” *In re Estate of Olopai*, 2015 MP 3 ¶ 14 (emphasis added)  
(quoting *In re Estate of Rofag*, 2 NMI 18, 23 n.3 (1991)). The word “must” in this context means “mandatory.” See  
*Aquino v. Tinian Cockfighting Bd.*, 3 NMI 284, 292 (1992). This mandatory requirement for a finding of *mwei mwei*  
appears to conflict with the Supreme Court’s statement that none of the eight (8) factors are dispositive because factor  
one (1) asks the same question as the mandatory factor – whether the natural parents consented to the adoption. Because  
of the use of the word “must,” the Court finds that that this factor is dispositive – insofar that if the Court finds that the  
natural parents did not consent, the Court will find that Rosie is not a *mwei mwei* of Nana Rosa.

1 adopted parents took the child to live off island; whether the child gave the alleged parent power of  
2 attorney; whether the alleged parent supports the child into adulthood – such as paying for the  
3 child’s college; the amount of money, time, and energy exerted in raising the child; whether the  
4 alleged parents attended the child’s important life events; whether the alleged parent disciplined the  
5 child; and whether the child returned to the alleged parent’s home after college. *Id.* at ¶¶ 16 – 20.  
6 Even the cutting of ties between the child and alleged parent may be evidence of consent. For  
7 example, in *In re Estate of Olopai*, the Court found that “the estrangement resulting from [the  
8 alleged parent’s] disapproval of [the alleged son’s] romantic relationship demonstrated his  
9 expectation that he should continue to have fatherly authority.” 2015 MP 3 ¶ 19. Such expectation  
10 of continued fatherly authority is evidence that the alleged adopted parents received consent from  
11 the natural parents to raise the child as a *mwei mwei*. *Id.*

12 Rosie testified that she grew up with her natural grandparents Nana Rosa and Tata  
13 Baldomero. Rosie also testified that she had been born prematurely and was told that Nana Rosa  
14 visited her every day while she was at Torres Hospital. Rosie also testified that Juan brought her to  
15 Nana Rosa after she was released from the hospital. Rosie testified that when her natural parents  
16 moved to Falughulo, she moved into a smaller house with Nana Rosa and Tata Baldomero, and  
17 rarely, if ever, spent the night at the home of her natural parents located two (2) feet next door.  
18 According to Rosie, she only left Falughulo to live with Nicanor after her natural father molested  
19 her at the age of fifteen.<sup>13</sup> Even after Rosie left Falughulo, she testified that Nana Rosa would come  
20 and visit her at Nicanor’s house in Chalan Kanoa village almost every day.

21 Rosie’s natural father, Juan, and her uncle Nicanor, testified against Rosie’s claims that she  
22 is a *mwei mwei* of Nana Rosa. Juan testified that: Juan and his wife Crispina never consented to

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23 <sup>13</sup> It is worth noting that, unlike in *Olopai*, neither party testified that Rosie had a falling out with Nana Rosa. The  
24 falling out was only between Rosie and her biological father, Juan.

1 Rosie being adopted by Nana Rosa or anyone else; Juan brought Rosie home to his wife Crispina;  
2 and Rosie grew up with him and his family in his home. Additionally, Nicanor testified that he  
3 never treated Rosie as a sibling and has always treated Rosie as his niece.

4 Rosie lacks first-hand knowledge of the events that transpired when she was an infant.  
5 Rosie's biological father Juan is alive and testified that he never consented for Rosie to be culturally  
6 adopted by Nana Rosa.

7 Because the Court finds the testimony of witnesses against Rosa Laniyo Norita's ("Rosie")  
8 more credible, the Court finds that this factor tips against finding Rosie is a *mwei mwei*.

9 **B. The Child's Age at the Time of Adoption.**

10 *Mwei mwei* adoption typically occurs when the child is a baby, however "there is evidence  
11 that a child who is nine, ten, or eleven years old could be customarily adopted, depending on the  
12 circumstances." *In re Estate of Olopai*, 2015 MP 3 ¶ 21 (quoting *Malite*, 2011 MP 4 ¶ 20). The age  
13 of the child at the time of the adoption can be proven with circumstantial evidence. *Id.* at ¶ 24.

14 Here, Rosie testified that her father gave her to Nana Rosa and Tata Baldomero after she  
15 was released from the hospital following her birth. Her testimony is based on what she believes  
16 happened or what she believes she was told.

17 However, Juan, Rosie's father, the only witness with first-hand knowledge and recollection  
18 of the events, testified that after Rosa's discharge from the hospital, "[he] brought [Rosie] home to  
19 [his] wife Crispina," and at no point did he give Rosie to his mother to raise as a *mwei mwei*.

20 As stated above, the Court finds the testimony of witnesses against Rosie more credible.  
21 Therefore, the Court finds that this factor tips against finding that Rosie is a *mwei mwei*.

22 **C. Whether the Adoption Was Between Relatives.**

23 Customarily, *mwei mwei* adoptions occurred between relatives. *In re Estate of Amires*, 1997  
24 MP 8 ¶ 20. Therefore, a finding that the adoption occurred between relatives tips in favor of finding

1 that the adoptee is a *mwei mwei*. *See id.* However, the facts of this case indicate that Rosie was at  
2 best only a *kkiriida* of Nana Rosa and not a *mwei mwei*.

3 Here, Rosie argues that the alleged adoption occurred between relatives because she is Nana  
4 Rosa's biological granddaughter. Rosie lacks first-hand knowledge of the events that transpired  
5 when she was an infant. Rosie's biological father Juan is alive and testified that he never consented  
6 for Rosie to be culturally adopted by Nana Rosa.

7 As stated above, the Court finds the testimony of witnesses against Rosie more credible.  
8 Therefore, the Court finds that this factor tips against finding that Rosie is a *mwei mwei*.

9 **D. Whether Women Initiated the Adoption.**

10 Customarily, women initiate *mwei mwei* adoption. *In re Estate of Olopai*, 2015 MP 3 ¶ 28.

11 Here, Rosie herself conceded that the alleged adoption was initiated by her father Juan. Juan  
12 himself, the witness whom the Courts finds more credible, testified that after Rosa's discharge from  
13 the hospital, "[he] brought [Rosie] home to [his] wife Crispina," and at no point did he give Rosie  
14 to Nana Rosa to raise as a *mwei mwei*. Therefore, the Court finds that this factor tips against finding  
15 that Rosie is a *mwei mwei*.

16 **E. Whether the Adopting Parent Was Married.**

17 It is rare for a single person to adopt a child as a *mwei mwei*. *In re Estate of Malite*, 2011  
18 MP 4 ¶ 22. Therefore, a finding that the adopting parent was not married weighs against a finding  
19 of *mwei mwei*. *In re Estate of Olopai*, 2015 MP 3 ¶ 30.

20 Rosie argues this factor should tip in her favor because the alleged adopted parents, Nana  
21 Rosa and Tata Baldomero, were married at the time they allegedly adopted Rosie. However, as  
22 stated above, the Court finds the testimony of witnesses against Rosie more credible. Here, Juan,  
23 Rosie's father and the only witness with first-hand knowledge and recollection of the events,  
24

1 testified that after Rosa's discharge from the hospital, "[he] brought [Rosie] home to [his] wife  
2 Crispina," and at no point did he give Rosie to his mother to raise as a *mwei mwei*.

3 Therefore, the Court finds that this factor tips against finding that Rosie is a *mwei mwei*.

4 **F. Whether the Community Was Aware of the *Mwei Mwei* Adoption.**

5 "The [sixth] relevant factor for a court to consider is whether the entire community is made  
6 aware of the *mwei mwei* adoption." *In re Estate of Malite*, 2011 MP 4 ¶ 23. Here, Leonisa Somol  
7 testified that "everyone knew that [Rosie] was *mwei mwei*." Rosie's siblings Juan L. and Dennis  
8 testified that Rosie was treated differently by Nana Rosa. Rosie's son Jonathon testified that he was  
9 not told that his mother Rosie was a *mwei mwei* of Nana Rosa.

10 However, Rosie's biological father Juan and Nicanor testified that Rosie's alleged adoption  
11 never occurred and Rosie lacks first-hand knowledge of the events that transpired when she was an  
12 infant.

13 As stated above, the Court finds the testimony of witnesses against Rosie more credible.  
14 Therefore, the Court finds that this factor tips against finding that Rosie is a *mwei mwei*.

15 **G. Whether the Natural Parent Reclaimed the Adoptee.**

16 If a child is adopted under the *mwei mwei* custom, it is extremely rare for the natural parents  
17 to reclaim the adopted children. *See In re Estate of Olopai*, 2015 MP 3 ¶ 35.

18 Here, Rosie testified that she never lived with Nana Rosa again after she left Nana Rosa's  
19 house at age 15. However, Rosie did not testify that her natural parents reclaimed her after she  
20 allegedly left Nana Rosa. Instead, Rosie testified that she moved in with Nicanor. Rosie eventually  
21 married, started a family of her own, and moved away from Saipan.

22 Juan and Nicanor testified that Rosie was never reclaimed because she was never adopted as  
23 a *mwei mwei*. Rosie lacks first-hand knowledge of the events that transpired when she was an  
24

1 infant. Rosie’s biological father Juan is alive and testified that he never consented for Rosie to be  
2 culturally adopted by Nana Rosa.

3 As stated above, the Court finds the testimony of witnesses against Rosie more credible.  
4 Therefore, the Court finds that this factor tips against finding that Rosie is a *mwei mwei*.

5 **H. Whether the Adoptee Was the Natural Parent’s Only Child.**

6 “Natural parents rarely give up their only child for [*mwei mwei*] adoption,” and typically  
7 would wait to have multiple children before deciding to give one up for *mwei mwei* adoption. *In re*  
8 *Estate of Olopai*, 2015 MP 3 ¶ 38.

9 Here, Rosie was the first child of Juan and his wife. Rosie testified that Juan gave her to  
10 Nana Rosa to be raised as a *mwei mwei* before her nine (9) siblings were born. Therefore, her own  
11 testimony tips against finding that Rosie is a *mwei mwei*.

12 Furthermore, as stated above, Juan testified that he never gave Rosie to Nana Rosa to be  
13 raised and the Court finds Juan’s testimony more credible than Rosie’s. Therefore, for this  
14 additional reason, the Court finds that this factor tips against finding that Rosie is a *mwei mwei*.

15 **I. Whether the Adoptive Parents Consented to the Adoption.**

16 As stated above, the eight (8) factors recognized by the Supreme Court are neither exclusive  
17 nor exhaustive and trial courts has broad discretion to consider additional factors. *See In re Estate*  
18 *of Malite*, 2011 MP 4 ¶ 14 (finding that “neither *Rofag* nor its progeny establish an exhaustive list  
19 of *mwei mwei* adoption factors”). Therefore, the Court also finds that a showing that the adoptive  
20 parents consented to the adoption is an additional factor for courts to consider when determining  
21 whether the individual is a *mwei mwei*.

22 The Supreme Court found in *In re Estate of Amires*, 1997 MP 8 ¶ 20, that:

23 The motivations for adoption are various, if a man and his wife have no children,  
24 or if their children are nearly grown and they wish a young child in the family, or

1 if they simply wish to have more children about, they may ask to adopt a child.  
2 Babies whose mothers have died, and illegitimate children may be adopted.

3 (quoting A. Spoehr, *Saipan: The Ethnology of a War-Devastated Island*, 41 FIELDIANA:  
4 ANTHROPOLOGY, at 357 (1954)).

5 Here, the Court finds that Nana Rosa did not consent to the adoption of Rosie. There was no  
6 credible testimony showing that Nana Rosa acknowledged and treated Rosie as her *mwei mwei*  
7 child. Nana Rosa would have made her intention to adopt Rosie well known if she intended for  
8 Rosie to be her *mwei mwei* child, just as Nana Rosa did for her *mwei mwei* son Jacinto. Therefore,  
9 the Court finds that this factor tips against finding that Rosie is a *mwei mwei*.

10 **J. Whether Nana Rosa raised Rosie.**

11 The Court also finds that another relevant factor in determining whether Rosie is a *mwei*  
12 *mwei* is whether the alleged adopting parent took in the alleged adoptee and raised the child. See *In*  
13 *re Estate of Malite*, 2011 MP 4, ¶ 16 (examining how the adopter took the adoptee into his home).

14 Here, Rosie testified that she lived in Falughulo. Falughulo is a family compound with a big  
15 house two (2) feet away from a smaller house. Nana Rosa and Tata Baldomero originally lived in  
16 the big house, however Nana Rosa and Tata Baldomero moved to the smaller house so Juan and his  
17 wife and children could stay in the big house. Rosie testified that she lived and slept in the small  
18 house with Nana Rosa while Juan, his wife, and Rosie's nine (9) other siblings slept in the big  
19 house.

20 As Falughulo was a family compound, the Court finds that because the big house and small  
21 house were only two (2) feet apart, in effect the two houses were basically indistinguishable and  
22 extensions for purposes of family living quarters.

23 Additionally, because Falughulo is a family compound, it would not have been unusual for  
24 Rosie, as the eldest grandchild, to have stayed and slept in Nana Rosa's house to assist her elderly



1 grandparents with daily chores and be in close proximity to offer assistance if necessary. It is a  
2 cornerstone of (the Chamorro and) Carolinian culture to respect family elders, and a manifestation  
3 of that respect is the reciprocity to care for elderly family members. By example, even Rosie's son  
4 Jonathon testified that he lived with Nana Rosa and took care of her. Living with and caring for  
5 grandparents does not automatically elevate a child to the status of a *mwei mwei*.

6 For those with only a superficial understanding and are unfamiliar with Carolinian familial  
7 relationships can easily mistake the subtle but significant difference between a *mwei mwei* and a  
8 *kkiriida*. Even more so, for those with only a superficial understanding and are unfamiliar with  
9 Carolinian familial relationships can easily mistake the layered difference between a *mwei mwei*, a  
10 *kkiriida* and the Carolinian cultural of respect and reciprocity to take care of elderly family  
11 members. Even if Rosie had spent her nights in the home of Nana Rosa, Rosie did not demonstrate  
12 through credible testimony or tangible evidence that this amounted to Nana Rosa agreeing to raise  
13 Rosie as her own child.

14 Therefore, this factor tips against Rosie's claim that she is a *mwei mwei*.

## 15 V. CONCLUSIONS OF LAW

16 For Rosie to be found to be Nana Rosa's *mwei mwei* child, and not just a *kkiriida* or another  
17 form of Carolinian adoptee,<sup>14</sup> Rosie must have shown that she is a *mwei mwei* child of Nana Rosa  
18 by the preponderance of the evidence. See *In re Estate of Olopai*, 2015 MP 3 ¶ 15. A party satisfies  
19 the preponderance of the evidence standard when she produces "evidence which is of greater  
20 weight or more convincing than the evidence which is offered in opposition to it; that is, evidence,  
21 which as a whole shows that the fact sought to be proved is more probable than not." *In re Estate of*  
22 *Barcinas*, 4 NMI 149, 154 (1994) (quoting Black's Law Dictionary 1182 (6th ed. 1990)).

23 \_\_\_\_\_  
24 <sup>14</sup> Another form of Carolinian adoptee is *fa'am*, which is similar to a foster child. See *In re Estate of Olopai*, 2015 MP 3  
¶ 17.

1 Therefore, for Rosie to be found as a *mwei mwei*, she must have produced evidence showing that it  
2 is more probable than not that she is a *mwei mwei*.

3 The Court finds that Rosa Laniyo Norita failed to prove by a preponderance of the evidence  
4 that she was the *mwei mwei* child of Nana Rosa because all of the eight (8) factors<sup>15</sup> used to  
5 determine whether an individual is a *mwei mwei*, plus the additional factors<sup>16</sup> considered by the  
6 Court, tip against a finding that Rosie is a *mwei mwei* child. THEREFORE, the Court finds that  
7 Rosa Laniyo Norita is not a culturally adopted child of her biological grandmother, Rosa Flores  
8 Norita.<sup>17</sup>

9  
10 **IT IS SO ORDERED** this 1<sup>st</sup> day of August, 2019.

11  
12 /s/   
13 **JOSEPH N. CAMACHO**, Associate Judge

22 <sup>15</sup> *In re Estate of Olopai*, 2015 MP 3 ¶ 15.

23 <sup>16</sup> *In re Estate of Malite*, 2011 MP 4 ¶ 14.

24 <sup>17</sup> As mentioned in footnote 12, a finding that Rosie's natural parents did not consent to the adoption is by itself reason to find that Rosie is not a *mwei mwei*. The Court addressed all of the *Olopai* factors, plus two other factors the Court found relevant, to ensure that all of Rosie's arguments were examined.