

failed to carry out these customary duties then, and in that event, he might be removed from the land and his interest therein terminated by the *Droulul*, which, on *Jebdrik's* side, holds the authority of an *Iroi* *Lablab*. Such removal, of course, requires the proper exercise of authority and must not be done arbitrarily, capriciously, or in a manner contrary to custom.

[4] The trial court correctly held that Defendant and Appellant should be given the opportunity to acknowledge the *Iroi Erik* and perform his customary obligations to her in the light of judgment entered. We agree.

Accordingly, we affirm the judgment of the trial court in the main action below, and we declare null and void all actions of the trial court taken subsequent to the filing of the Notice of Appeal; and the case is hereby remanded for further proceedings consistent with this Opinion.

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ESUROI CLAN By RDIALUL EBERDONG, Plaintiff

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, and  
MUNICIPAL COUNCIL OF AIRAI MUNICIPALITY, Defendants,

and

KESOL CLAN By JONATHAN NGIRMEKUR, Intervenor-  
Appellant,

and

JOHANNES POLLOI By ANTHONY POLLOI, Intervenor

Civil Appeal No. 146

Appellate Division of the High Court

Palau District

June 8, 1977

Appeal from finding that appellant had no interest in certain land. The Appellate Division of the High Court, Williams, Associate Justice, held that the finding was supported by the evidence.

ESUROI CLAN v. TRUST TERRITORY

Appeal and Error—Findings and Conclusions—Tests

Trial court's findings will not be set aside unless clearly erroneous.

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*Counsel for Appellant:* J. ROMAN BEDOR, Micronesian  
Legal Services Corporation

*Counsel for Appellee:* CARLOS SALII, *Assistant Attorney  
General* for the Trust Territory  
of the Pacific Islands

BROWN, *Associate Justice*, WILLIAMS, *Associate Justice*  
and PEREZ, *Special Justice*

WILLIAMS, *Associate Justice*

This is an appeal from a judgment entered in Palau Civil  
Action No. 6-74.

The original action was instituted by the plaintiff Esuroi  
Clan, claiming ownership of a large parcel of land in the  
Palau District. The defendants Trust Territory Govern-  
ment and Airai Municipality contest Plaintiff's claim and  
allege ownership of said land.

After the issues were joined between Plaintiff and  
Defendants, the Kesol Clan intervened, claiming owner-  
ship in the area somewhat similar to that claimed by  
Plaintiff although not as large.

Another intervenor, Johannes Polloi, filed a claim for a  
portion of the land in question.

Each of the parties were found to own certain portions  
of the total area in dispute but this appeal only involves  
that portion of the judgment awarding a certain portion of  
the lands in question to the defendants Trust Territory of  
the Pacific Islands and Airai Municipality.

Intervenor Kesol Clan timely filed an appeal from the  
Court's decision finding that the Kesol Clan had no interest  
in the land north of the "K" line.

Plaintiff Esuroi Clan also appealed from the judgment

but said appeal was not timely filed and Plaintiff did not otherwise participate in the proceedings on appeal.

The trial court rejected the appellant's claim of ownership to the land north of the "K" line. Appellant contends that the trial court's judgment rested on the grounds of laches and the statute of limitations. While the Court's decision against the plaintiff and the other intervenors may have been based upon laches or the statute of limitations, it is readily apparent from a review of the judgment that these grounds were not the basis of the Court's decision against Appellant. After consideration of the evidence, the trial court merely found that Appellant had no interest in the lands in question, thus in effect ruling that the evidence was insufficient to support Appellant's claim.

This Court has repeatedly held that the findings of the trial court will not be set aside unless clearly erroneous. *Helgenberger v. Trust Territory*, 4 T.T.R. 530 (App. Div. 1969); 6 TTC § 355(2). The function of the appellate court in reviewing evidence is clearly set forth in *Arriola v. Arriola*, 4 T.T.R. 486 (App. Div. 1969), and we have reviewed the record and find the trial court could properly conclude that Appellants have no interest in the property north of the "K" line.

Although Appellant has raised other allegations of error by the trial court, discussion of these issues herein is not necessary in view of our ruling on the sufficiency of the facts. Therefore, judgment of the trial court is affirmed.