



By Order of the Court, Judge Joseph N. Camacho

FOR PUBLICATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

E-FILED
CNMI SUPERIOR COURT
E-filed: Apr 10 2018 04:40PM
Clerk Review: N/A
Filing ID: 61897117
Case Number: 03-0079-CV
N/A



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

THE ESTATE OF RITA ROGOLIFOI,) CIVIL ACTION NO. 03-0079-CV
)
) **ORDER DENYING MELVIN FAISAO'S**
Deceased,) **CLAIMS OF HEIRSHIP AS PEDRO**
) **ROGOLIFOI WAS NOT THE FATHER**
) **OF MACARIA ROGOLIFOI FAISAO**
) **OR THE ORIGINAL OWNER OF THE**
) **PROPERTY**
)

I. INTRODUCTION

This matter came before the Court on June 2, 2017 and June 5-7, 2017 on Melvin L.O. Faisao's Motion to Determine Heirship under Carolinian Customary Law. Claimant for heirship Melvin L.O. Faisao ("Melvin") was represented by Attorney Charles P. Reyes, Jr.¹ Administrator for the Estate Clarence "Bud" White ("the Administrator") was represented by Attorney Stephen J. Nutting. Attorney Joaquin Torres, counsel for heirs of Pedro Rogolifoi, the Estate of Jesus Faisao, and the Estate of Macaria Rogolifoi Faisao, was also present.

During the hearings, Melvin called George S. Fitial,² Ana P. Mafi, Antonio C. Angui, Antonio Raisang, Carlos Pua, Melvin Faisao, and Ramon A. Tebuteb³ as witnesses. In response, the Administrator called Angelina Seman Teregeyo, Herman T. Guerrero, Francine Agulto, and Antonia Seman Fitial as witnesses for the Estate of Rita Rogolifoi.⁴

¹ Attorney Reyes later moved to withdraw from representation and was discharged from his representation of Melvin on March 14, 2018. *See The Estate of Rita Rogolifoi*, Civ. No. 03-0079 (NMI Super. Ct. March 14, 2018) (Order Following Status Conference). Melvin is now *pro se* in this matter.

² George S. Fitial was called by an unopposed submitted notarized affidavit.

³ Ramon A. Tebuteb was admitted as an expert in Carolinian culture. *See generally The Estate of Rita Rogolifoi*, Civ. No. 03-0079 (NMI Super. Ct. June 14, 2017) (Order Admitting Ramon A. Tebuteb as an Expert Witness in the Field of Carolinian Customary Land Distribution).

⁴ All witnesses claiming to be descendants of Rita Rogolifoi and Macaria Rogolifoi Faisao self-identified as Carolinian.

1 Based on a review of the filings, oral arguments, and applicable law, the Court makes the
2 following order.

3 II. BACKGROUND

4 This matter centers around property within the probate Estate of Rita Rogolifoi located in
5 As-Mahetog,⁵ Saipan, Commonwealth of the Northern Mariana Islands, also identified in the Estate
6 Inventory as follows:

7 Lot 616 (formerly part of T.D. 667), located at As-Mahetog, Saipan,
8 CNMI, containing an area of 3,675 square meters, more or less, as more
9 particularly described and shown on that certain Survey Plat of Part of Lot
10 630 and 616, DLS Check No. 2023/04, the original of which was duly
11 recorded with the Commonwealth Recorders Office as File No. 04-2902
12 on December 13th, 2004.

13 Lot 630 (formerly part of T.D. 667), located at As-Mahetog, Saipan,
14 CNM1, containing an area of 30,252 square meters, more or less, as more
15 particularly described and shown on that certain Survey Plat of Part of Lot
16 630 and 616, DLS Check No. 2023/04, the original of which was duly
17 recorded with the Commonwealth Recorders Office as File No. 04-2902
18 on December 13th, 2004.

19 (hereafter “the property”). The probate of the Estate of Rita Rogolifoi (“the Estate”) began on
20 February 20, 2003. The heirs of the Estate were identified Rita Rogolifoi’s three biological
21 children: Dolores Rogolifoi Saralu (“Dolores Saralu”), Ana Rogolifoi, and Carmen Rogolifoi. A
22 fourth heir was later identified as Dolores Saralu’s natural child, Pedro Seman, who was adopted by
23 his grandmother, Rita Rogolifoi, through the Carolinian custom of *mwei mwei*. The heirs of Rita
24 Rogolifoi’s four children were then identified and declared as heirs in a Decree of Partial
Distribution in this proceeding entered on September 1, 2010, wherein the Court approved a partial
distribution of funds recovered by the Administrator from rents and profits received from lands that
have been identified as belonging to the “Heirs of Rita Rogolifoi.”

⁵ Also known as As Mahetok or Lower Base.

1 In early 2017, more than 14 years after the Estate was first opened and almost seven years
2 after the Court first identified and declared the identity of the four known and undisputed heirs of
3 the Estate, it was widely reported that the Estate would begin recovery of the almost \$3,000,000.00
4 as land compensation from the CNMI government.⁶ On May 5, 2017, Melvin filed a claim as an
5 heir to the Estate.

6 Melvin alleges he is the grandson of Macaria Rogolifoi Faisao and further alleges Macaria
7 Rogolifoi Faisao is the biological sister of the decedent, Rita Rogolifoi, through Rita Rogolifoi's
8 father Pedro Rogolifoi. Melvin claims that Pedro Rogolifoi left Rita Rogolifoi's mother, Dolores
9 Faibar and began a relationship with Antonia Faibar. Melvin further contends that Pedro Rogolifoi
10 moved to the Northern Islands with Antonia Faibar where Pedro Rogolifoi fathered Macaria
11 Rogolifoi Faisao and that Pedro Rogolifoi never returned to Saipan. Melvin also contends that the
12 property in Rita Rogolifoi's estate originally belonged to Pedro Rogolifoi and was held in trust in
13 Rita Rogolifoi's name for Pedro Rogolifoi's family, including Macaria Rogolifoi Faisao and
14 Macaria's descendants, according to Carolinian custom. As a descendant of Macaria Rogolifoi
15 Faisao, Melvin claims entitlement to a share of the property and proceeds from the property within
16 the Estate. The Administrator denies Melvin's allegations that Macaria Rogolifoi Faisao and Rita
17 Rogolifoi were biological half-sisters and further contends that Rita Rogolifoi, not Pedro Rogolifoi,
18 originally owned the property.

19 After review of the briefs, testimonies, and relevant law, the Court makes the following
20 findings and order.

21 ///

22 ///

23

24 ⁶ See e.g., Jon Perez, *Admin to start paying settlements, judgments*, SAIPAN TRIBUNE, Feb. 10, 2017,
<https://www.saipantribune.com/index.php/admin-start-paying-settlements-judgments/>

1 **III. FINDINGS OF FACT**

2 The Court **FINDS** the following facts by a preponderance of the evidence:

3 *A. Records from Mount Carmel Cathedral establish the Rogolifoi family lineage.*

- 4 1. Mount Carmel Cathedral holds family records (“Church Records”) dating back to the mid-
5 nineteenth century.
- 6 2. Church Records contained detailed information relating to the Rogolifoi clan or family,
7 originating from Pedro Rogolifoi and his wife Dolores Faibar.⁷
- 8 3. Church Records also contained detailed information relating to the Rogolifoi clan or family,
9 originating from Vicente Rogolifoi and his wife Antonia Lealerang Faibar.
- 10 4. According to Church Records, Pedro Rogolifoi was born on an unknown date in Satugual,
11 Caroline Islands.
- 12 5. Pedro Rogolifoi had a younger brother, Vicente Rogolifoi, who was born on Saipan⁸ in
13 1863.

14 *B. Pedro Rogolifoi had three children.⁹*

- 15 6. Pedro Rogolifoi had three children, namely:
- 16 a. Rita Rogolifoi,
- 17 b. Nicolasa Faibar, and
- 18 c. Sylvestre Faibar Rogolifoi.

19 ///

20 _____

21 ⁷ In or about 2007, Angelina Seman Teregeyo, one of the heirs of Pedro Seman, the *mwei mwei* son of Rita Rogolifoi, asked Herman T. Guerrero to prepare a “family tree” for the Rogolifoi family. Mr. Guerrero prepared a genealogical report, which identified early ancestors of the Rogolifoi family originating from Pedro Rogolifoi. The reports compiled by Mr. Guerrero were introduced into evidence as Exhibits 2.1-2.70 and 3.1-3.4.

22

23 ⁸ The Court notes that references to locations of birth are to the modern names of locations, though the relevant births and deaths of many of the people were before the formation of the Trust Territory or the Commonwealth of the Northern Mariana Islands.

24 ⁹ See also Attachment I at the conclusion of this order.

1 C. Rita Rogolifoi was the Carolinian daughter of Pedro Rogolifoi and died before 1984.¹⁰

2 7. Rita Rogolifoi was Carolinian and the eldest female of her familial generation.

3 8. Rita Rogolifoi was born in Garapan, Saipan. Ex. 2.¹¹

4 9. Rita Rogolifoi was the daughter of Pedro Rogolifoi and Dolores Faibar.¹²

5 10. Rita Rogolifoi was one of three children born to Pedro Rogolifoi and Dolores Faibar.

6 11. Rita Rogolifoi had one biological sister, Nicolasa Faibar, and one biological younger
7 brother, Sylvestre Faibar Rogolifoi.

8 12. Rita Rogolifoi died without a will on November 8, 1952 in Saipan.

9 D. Vicente Rogolifoi, not Pedro Rogolifoi, was the father of Macaria Rogolifoi Faisao.

10 13. Vicente Rogolifoi was Pedro Rogolifoi's younger brother.

11 14. Vicente Rogolifoi had a relationship with Antonia Lealerang Faibar ("Antonia Faibar") that
12 resulted in their marriage.

13 15. Antonia Faibar was Dolores Faibar's sister.

14 16. Antonia Faibar was Rita Rogolifoi's aunt.

15 17. Antonia Faibar had three children, namely:

16 a. Macaria Rogolifoi Faisao¹³ (born "Macaria Isidora Faibar Rogolifoi") was born on
17 January 2, 1897 in Agrihan, on the Northern Islands;

18 b. Carlos Faibar who was born on August 11, 1898 in Garapan, Saipan; and

19 ¹⁰ As the Commonwealth Code ("CMC") took effect in 1984, Carolinian custom, not the CMC, guides the distribution
20 of the estate of a Carolinian person who dies intestate before the effective date of the NMI Probate Code. *In re Estate of*
Lairopi, 2002 MP 10 ¶ 12; *In re Estate of Rangamar*, 4 NMI 72, 75 (1993).

21 ¹¹ Although there was no birth certificate for Rita Rogolifoi, Mr. Guerrero testified he was often able to obtain birth
22 dates and other information from other documents on file with the Church such as marriage certificates, death
23 certificates, etc.

22 ¹² The Court notes the records related to the actual birth dates of Rita or her mother, Dolores Faibar, are incomplete.
23 However, any questions around exact dates of birth do not affect the Court's ability to find that Rita was the child of
24 Pedro Rogolifoi and Dolores Faibar. Mr. Guerrero testified that it was not unusual for birth dates to be only estimated
for island residents in the mid-nineteenth century, as actual birth dates and the years of birth for the island residents
were not generally kept or remembered, as this was more of a western concept.

¹³ Macaria Rogolifoi Faisao is the grandmother of Claimant Melvin Faisao.

1 c. Ana Faibar Rogolifoi who was born on February 8, 1901 in Garapan, Saipan.

2 18. The birth certificates for Macaria Rogolifoi Faisao, Carlos Faibar, and Ana Faibar Rogolifoi
3 were introduced into evidence.

4 19. Only the birth certificate for Ana Faibar Rogolifoi included the identity of her father,
5 Vicente Rogolifoi. *See Exs. C, D, 5, 6.*

6 20. At the time Church Records were created, the Catholic Church would often not list the name
7 of the father if the parents were not formally married at the time the mother gave birth.

8 21. As Vicente Rogolifoi was not listed on Carlos Faibar's birth certificate in August 1898, but
9 was listed on Ana Faibar Rogolifoi's birth certificate in February 1901, Vicente Rogolifoi
10 and Antonia Faibar were formally married at some point between August 1898 and
11 February 1901.

12 *E. Rita Rogolifoi cleared the property in the Estate after World War II.*

13 22. Pedro Seman was the biological son of Dolores Saralu.

14 23. Pedro Seman was also the adopted *mwei mwei* son of Rita Rogolifoi.

15 24. Pedro Seman was born in 1921.

16 25. During his early teen years, Pedro Seman helped his adopted mother, Rita Rogolifoi, clear
17 and plant trees and other crops on the property.

18 26. Rita Rogolifoi and Pedro Seman later built a home on the property.

19 27. After Rita Rogolifoi died in 1952, Antonia Seman Fitial lived in the home on the property
20 with Dolores Saralu and Pedro Seman.

21 *F. Records establish that Rita Rogolifoi owned the property in the Estate, not Pedro Rogolifoi.*

22 28. The Title Determination of the property was given to the "Heirs of Rita Rogolifoi"
23 represented by Dolores Saralu land trustee. Ex. 8.1-8.2.

24 29. This Title Determination was dated October 13, 1953. Exs. 8.1-8.2.

1 30. The Title Determination contains no indication that the land was owned or occupied by
2 Pedro Rogolifoi nor is there a record that such a claim was made. *See* Exs. 8.1-8.2.

3 31. Francine Agulto, a professional title researcher with more than seven years of experience in
4 the Commonwealth, prepared an Abstract of Title for the Administrator for the Estate to
5 locate every document presently in existence and on file with all government agencies
6 related to the property. *See* Exs. 9.1-9.4.

7 32. None of the documents in the Abstract Title referenced Rita Rogolifoi's father, Pedro
8 Rogolifoi, as having any interest in the property. *See* Ex. 9.1-9.4.

9 33. Nothing on record indicates that the property was once owned by Pedro Rogolifoi, Dolores
10 Faibar, Macaria Rogolifoi Faisao, or any other member of Rita Rogolifoi's family, other
11 than those heirs listed in the Title Determination. TR 521/9-19.

12 *G. The property in the Estate was used by all members of Rita Rogolifoi's family.*

13 34. The property was open to all members of the Rita Rogolifoi family or clan and no family
14 members were ever excluded or denied access.

15 35. Members of Rita Rogolifoi's family had open access to the property to plant and harvest
16 various crops, and to use the land for their benefit and enjoyment, long after Rita Rogolifoi
17 passed away in 1952.

18 36. Dolores Saralu was the daughter of Rita Rogolifoi.

19 37. At some point during her lifetime, Dolores Saralu received money as compensation from a
20 war claim award for lands belonging to the Estate.¹⁴

21
22
23
24 ¹⁴ In taking the property under the original title determination the heirs of Rita Rogolifoi were denied the use of a portion of the property described as the U.S. Retention Area. *See* Ex. 9.1-9.14. Presumably this denial became the subject of a War Claims Action for which certain damages were paid to Dolores Saralu as the Land Trustee.

1 38. After receiving the compensation money, Dolores Saralu built a home in Garapan and, out
2 of familial love and generosity, gave \$900.00 to Macaria Rogolifoi Faisao's heirs, Monica
3 Faisao and Jesus Faisao, but did not give any amount to the heirs of Sylvestre Rogolifoi.

4 39. No one testified or submitted evidence that alleges Rita Rogolifoi's family had a general
5 family meeting to discontinue the traditional Carolinian family land trust arrangement or
6 exclude other members of the family from benefiting from Rita Rogolifoi's land during Rita
7 Rogolifoi's lifetime.

8 IV. CONCLUSIONS OF LAW

9 A. Carolinian customary law applies to this case.

10 Carolinian custom guides the distribution of the estate of a Carolinian person who dies
11 intestate. *In re Estate of Lairopi*, 2002 MP 10 ¶ 12 (citing *In re Estate of Rangamar*, 4 NMI 72, 75
12 (1993)). Where the original owner is Carolinian, the court presumes Carolinian customs apply to
13 the land and will distribute the probated estate in accordance with Carolinian inheritance custom
14 unless the original owner clearly decides to depart from Carolinian customary law. *Id.* (citing *In re*
15 *Estate of Kaipat*, 3 NMI 494, 498 (1993)). A preponderance of evidence standard applies when
16 rebutting the presumption for Carolinian customary law. *See Lairopi*, 2002 MP 10 ¶ 15 (finding the
17 lower court applied the proper standard and properly found by a preponderance of the evidence that
18 the property was Carolinian family land).

19 Here, Carolinian customary law is presumed to apply because Rita Rogolifoi is Carolinian
20 and died intestate. No facts in the record show that Rita Rogolifoi intended to depart from
21 Carolinian custom or rebut this presumption.

22 B. The property is the Carolinian family land of Rita Rogolifoi, not Pedro Rogolifoi.

23 Members of the Carolinian and Chamorro population were able to stake claims to property
24 on Saipan in the German Period, which began in 1899, and in the Japanese Period, beginning in

1 1914. See *In re Estate of Rangamar*, 4 NMI 72, 76 (1993). After World War II, the island
2 residents¹⁵ began receiving deeds for the lands they occupied from the Trust Territory Government.
3 The Trust Territory Code § 107 set out the requirements to obtain a Title Determination or “land
4 registration” as follows:

5 (1) A land registration team shall:

6 (a) Upon its appointment, institute a preliminary inquiry regarding the title to
7 all lands claimed by individuals, families, lineages, clans, or otherwise,
8 within the area for which it is responsible and, if satisfied that such claims are
9 well-founded, shall record the same for hearing.

10 (b) When the recording of such claims has been completed for the area for
11 which it is responsible, proceed, after notice, to hear the parties and witnesses
12 and adjudicate such claims, subject to review by the commission and the
13 exceptions provided in this chapter.

14 (c) On a decision being reached on any claim, record the place name, if any,
15 of the land, otherwise a brief description thereof, together with the names of
16 individuals, families, lineages, clans, or other bodies found to be the rightful
17 owners thereof and the type of ownership involved, and shall also record the
18 name of any person or group who holds either any subordinate rights (such as
19 rights of administration) or use or any encumbrance or easement with respect
20 to such land.

21

22 (2) Where the parties to any claim agree to a settlement or compromise in the
23 presence of the team, the particulars required by subsection (3) of this section
24 shall be recorded and shall have the same force and effect as a decision under this
section.

(3) Upon completion of the actions set forth in subsections (1) to (4) of this
section, the team shall submit its record concerning the claim to the commission
for review. In all cases where dispute has arisen, the substance of all pertinent
testimony taken shall be included in the team's record.

Before the land registration team commenced a hearing with respect to any claim, the team
was required to provide notices of the claim and the date, time, and place of the hearing at least 30
days in advance by posting it in English and in the local language, and personally serving notice on

¹⁵ “Island residents” generally referring to Chamorros and Carolinians living on the island.

1 all parties shown on the preliminary inquiry. TTC 67 § 109. The hearings that were conducted were
2 to take testimony under oath and were guided “by the rules of civil procedure and the rules of
3 evidence.” TTC 67 §§ 111, 112.

4 While *res judicata* applies to title determinations, when the record title-holder was
5 Carolinian, a factual question may still remain as to whether the land was held for herself or on
6 behalf of the family as the eldest woman in her familial generation. *See Kaipat*, 3 NMI at 498.

7 Here, the only documented title to the property is a Title Determination dated October 13,
8 1953, which gave ownership of the property to the “Heirs of Rita Rogolifoi.” Ex. 8.1-8.2. As Rita
9 Rogolifoi was Carolinian, the question remains as to whether she was the actual owner of the
10 property or the named Carolinian trustee as the eldest woman in her familial generation.

11 No testimony or evidence establishes that Pedro Rogolifoi owned or occupied the property.
12 Instead, the testimony and timelines presented prove that the land was cleared by Rita Rogolifoi
13 with the help of her descendants in the early nineteen-hundreds with the intent to lay claim to the
14 land under the protocols set after World War II. While the land was used according to Carolinian
15 custom and Rita Rogolifoi’s siblings and their descendants were able to freely enter the land and
16 collect fruit, this does not necessarily show ownership rights to the land. Ramon Tebuteb confirmed
17 that the mere “act of harvesting or collecting the breadfruit, banana trees, all those things, . . .
18 doesn’t give them land ownership rights to the property . . . [and] [l]ike any neighbor, [a family
19 member] can get some mango, that doesn’t automatically [mean] they own your house . . .” TR
20 703-704/24-3.

21 Moreover, while the Court also received evidence that Dolores Saralu gave Monica Faisao
22 and Jesus Faisao \$900.00 from a war claim award she received from lands belonging to the Estate,
23 the giving of money received because of the Estate does not equate ownership of the Estate. There
24 is no credible evidence that any portion of the war claims moneys received were transferred to any

1 of the heirs of Sylvestre Rogolifoi, which would have been required if the lands were actually
2 acquired through Pedro Rogolifoi. At the same time, the Court received evidence that Dolores
3 Saralu held on to a “huge amount” of the war claim funds received to build a house in Garapan and
4 that the \$900 given to Monica Faisao and Jesus Faisao was just a small gift made to share in the
5 good fortune of the family as is Carolinian custom. When asked why Dolores Saralu would give
6 money to Macaria Rogolifoi Faisao’s heirs if they did not have any right to it, Antonia Seman Fitial
7 testified: “I would say that in our custom or culture, if, for example, my grandmother know that [a]
8 relative is in need and she has that much of money she would just open up her heart and give it to
9 Macaria, not meaning that Macaria would be entitled to the property from the mom.” TR 590/21-
10 25. Melvin similarly testified when asked about an uneven split of the war claims and why Dolores
11 Saralu would give money to his step-grandfather, Jesus Faisao, when he was not an heir to the
12 Estate: “my aunty has a big compassionate heart to that old man because he was the husband of
13 Macaria.” TR 499/13-14.

14 The land was used according to Carolinian custom, but this does not establish any
15 ownership rights to Rita Rogolifoi’s siblings and/or their descendants. Therefore, the preponderance
16 of evidence indicates that Rita Rogolifoi is the original land owner of the property and the land
17 belongs solely to her, not her father Pedro Rogolifoi.

18 *C. Claims of heirship must be established by a preponderance of the evidence.*

19 When a child is born out of wedlock, the Commonwealth Code provides a “clear and
20 convincing proof” standard to establish paternity for heirship after the death of the alleged father in
21 8 CMC § 2918(a). However, customary law, not the Commonwealth Code, control issues of
22 inheritance when a Chamorro or Carolinian decedent dies intestate before 1984. *See Lairopi*, 2002
23 MP 10 ¶ 12; *Rangamar*, 4 NMI at 75. Here, Rita Rogolifoi passed away intestate and was
24 Carolinian, so customary law, not the Commonwealth Code applies to the present case.

1 In other cases involving customary law and heirship, the Commonwealth Supreme Court
2 found a preponderance of the evidence standard applies to determinations of parentage in customary
3 adoption. *In re Estate of Olopai*, 2015 MP 3 ¶ 15 (citing *In re Estate of Rofag*, 2 NMI 18, 29
4 (1991)). In this case, Melvin does not seek to show that his ancestor, Macaria Rogolifoi Faisao was
5 customarily adopted, but claims that Macaria Rogolifoi Faisao was the biological child of Pedro
6 Rogolifoi, born out of wedlock with Antonia Faibar. The Court applies the preponderance of
7 evidence standard also employed in customary adoption cases. This standard is appropriate because
8 applying a higher standard of proof on biological children born out of wedlock than the
9 preponderance of evidence standard employed for adoptive children risks unequal treatment of law
10 to children of different classification as required by the lineage of cases following *Labine v.*
11 *Vincent*, 401 U.S. 532 (1971). Applying a preponderance of the evidence standard treats both
12 biological children, whether born in wedlock or outside of wedlock, and adopted children equally.

13 The claimant bears the burden of proof to establish parentage. *Olopai*, 2015 MP 3 ¶ 15.
14 Thus, in this case, Melvin bears the burden to prove that the parentage of Macaria Rogolifoi Faisao
15 entitles him to share in Rita Rogolifoi's estate by a preponderance of the evidence.

16 *D. Macaria Rogolifoi Faisao is not the daughter of Pedro Rogolifoi or the biological sister of Rita*
17 *Rogolifoi.*

18 The birth certificate of Macaria Rogolifoi Faisao does not list the name of her father. Exs. C,
19 D. Herman T. Guerrero's testimony was that the Catholic Church would not list the father of a child
20 if the parents were not officially married at the time the child was born. Macaria Rogolifoi Faisao's
21 birth certificate alone, then, does not firmly establish the identity of Macaria Rogolifoi Faisao's
22 father; her father could be Vicente Rogolifoi, Pedro Rogolifoi, or another unknown person.

23 Macaria Rogolifoi Faisao's younger sister, Ana Rogolifoi, born four years later, indicates
24 that Vicente Rogolifoi was Ana Rogolifoi's father. The Court draws the reasonable inference that at

1 some point after Macaria Rogolifoi Faisao's birth and before Ana Rogolifoi's birth, Vicente
2 Rogolifoi and Antonia Faibar were married. This marriage makes the Administrator's contention
3 that Vicente Rogolifoi was also the father of Macaria Rogolifoi Faisao the more reasonable and
4 plausible explanation. Melvin bears the burden to prove that Pedro Rogolifoi is more likely the
5 father of Macaria Rogolifoi Faisao, instead of Vicente Rogolifoi or another unknown person.

6 Admissible hearsay testimony from Macaria Rogolifoi Faisao's descendants alleges Pedro
7 Rogolifoi was Macaria Rogolifoi Faisao's father. Such oral history is important and is given weight
8 and value when no other source of information is available, but other facts and records exist in this
9 case that are more reliable. In this case, there are Church Records which are much more reliable,
10 made closer to when the events occurred, and compiled over many years by impartial priests and
11 other church personnel. While incomplete or imperfect, such records are much more reliable
12 evidence than vague recollections of statements made by elderly relatives from decades past when
13 the witnesses were young children. For example, the witnesses' memories inaccurately reflected the
14 names and number of siblings of Rita Rogolifoi and Macaria Rogolifoi Faisao and the very
15 existence of Vicente Rogolifoi, despite official Church Records documenting their existence. *See,*
16 *e.g.,* TR 410/15-20; TR 209/22.

17 Moreover, the birth certificates of Ana Faibar Rogolifoi and Carlos Faibar establish that
18 Melvin's claim that Pedro Rogolifoi moved to the Northern Islands with Antonia Faibar and
19 remained there with her for the rest of their lives cannot be true, as Antonia Faibar's two youngest
20 children were born in Saipan and Vicente Rogolifoi is the listed father for the youngest child. See
21 Ex. 3.3. The Court finds that Melvin's theory of his family history and the testimony of his
22 witnesses echoing this theory are not credible compared to the reliability and credibility of the
23 Church Records made at or near the time the events occurred.

24

1 Further, the testimonies that Macaria Rogolifoi Faisao and Rita Rogolifoi called each other
2 “sister” in Carolinian is inconclusive because the same Carolinian word is used to describe
3 biological sisters, female cousins, or close female friends. Therefore, Melvin fails to prove by a
4 preponderance of the evidence that Macaria Rogolifoi Faisao was Pedro Rogolifoi’s biological
5 daughter and/or Rita Rogolifoi’s biological sister. The Court finds the preponderance of the
6 evidence establishes that Macaria Rogolifoi Faisao was the daughter of Vicente Rogolifoi, the niece
7 of Pedro Rogolifoi and the cousin of Rita Rogolifoi. As the grandson of Macaria Rogolifoi Faisao,
8 Melvin is therefore not an heir of Pedro Rogolifoi or Rita Rogolifoi.

9 *E. Under Carolinian inheritance custom, only Rita Rogolifoi’s children and their descendants have*
10 *rights to the property.*

11 Under Carolinian culture, land is held matrilineally, with the female land trustee holding
12 title to the land for the equitable benefit of the family clan. *In re Estate of Rangamar*, 4 NMI 72, 76
13 (1993) (citation omitted). “Matrilineal land was held, pursuant to Carolinian land custom,
14 collectively by the females and recorded in the name of the oldest female member of the maternal
15 line, with the oldest holding title and acting more or less as a ‘trustee’ for the rest of the lineage
16 members.” *Id.* The expert in Carolinian custom in this case clarified the heirs of a Carolinian person
17 are normally limited to the children and their descendants and the Carolinian system is really not
18 different than under the American system, where heirs are generally defined and limited to the
19 decedent’s children, and their descendants. TR 693/5-12.

20 Here, as Rita Rogolifoi was the original land owner, under Carolinian custom, the land
21 passes to Rita Rogolifoi’s descendants – her children and their descendants. Melvin is not Rita
22 Rogolifoi’s child or a descendant of one of her children, therefore Melvin has no right to share in
23 Rita Rogolifoi’s estate or property.

24

1 In sum, the property was originally cleared and claimed by Rita Rogolifoi. It is held under
2 Carolinian custom and passes to Rita Rogolifoi's children and their descendants according to that
3 custom. Melvin is not a descendant of Rita Rogolifoi's children and therefore has no right to Rita
4 Rogolifoi's property or a share in the Estate.

5 **IV. CONCLUSION**

6 Melvin has failed to prove by a preponderance of the evidence that Pedro Rogolifoi was the
7 original land owner of the property. Further, Melvin has failed to prove by a preponderance of the
8 evidence that Pedro Rogolifoi is the father of Macaria Rogolifoi Faisao. Finally, Melvin has failed
9 to prove by a preponderance of the evidence that Rita Rogolifoi and Macaria Rogolifoi Faisao are
10 biological or adopted sisters. Accordingly, the Court hereby **DENIES** Melvin Faisao's claims of
11 heirship.

12
13 **IT IS SO ORDERED** this 10th day of April, 2018.

14
15 
16 **JOSEPH N. CAMACHO**, Associate Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Pedro Rogolifoi Family Tree

