IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE THE MATTER OF THE ESTATE OF MAXIMO LAIROPI OLOPAI, DECEASED.

Supreme Court No. 2013-SCC-0023-CIV

Superior Court No. 09-0379

OPINION

Cite as: 2015 MP 3

Decided July 7, 2015

Stephen J. Nutting, Saipan, MP, for Administratrix-Appellant.

Robert Tenorio Torres, Saipan, MP, for Appellees.

BEFORE: ALEXANDRO C. CASTRO, Chief Justice; JOHN A. MANGLONA, Associate Justice; PERRY B. INOS, Associate Justice.

INOS, J.:

¶ 1 Administratrix Jennifer Tanaka ("Jennifer") appeals the trial court's determination that decedent Maximo Olopai ("Timmo") adopted Appellees Manuel Mangarero ("Manny") and Tarsicio Olopai ("Tars") through the Carolinian custom of mwei mwei. Jennifer argues there was insufficient evidence of the mwei mwei adoptions. For the reasons discussed below, we AFFIRM the trial court's ruling that Manny and Tars are heirs to Timmo's estate as his customarily adopted children.

I. FACTUAL AND PROCEDURAL HISTORY

¶ 2 Jose Olopai ("Jose") and Gregoria Olopai ("Nana Ghon") were husband and wife of Carolinian descent. Together they had five children: Ana, Carmen, Ignacio, Pedro, and Timmo. Nana Ghon also had a child from a previous marriage—Camilla. The Olopai family lived according to traditional Carolinian culture, practices, and values.

¶ 3 When Jose died in 1962, Timmo assumed the role as the male head of the family. He was twenty-one years of age and unmarried. At the time, Nana Ghon's household consisted of Timmo; Ana; Carmen; Camilla; and five of Camilla's six children, including Manny.[1] Ignacio had already left the family home and had five children with his wife Rufina Kaipat: Ramon, Mercedes, Lourdes ("Lou"), Gregoria ("Gora"), and Tars. Ignacio, Rufina, and their children lived with Rufina's family on or near her family's property.

¶ 4 In 1963, Rufina became ill and was hospitalized in Saipan. Ignacio was in Guam at the time. Carmen testified that she, Timmo, and Nana Ghon went to the hospital and Rufina was unconscious when they arrived.[2] After visiting the hospital a second time, Timmo and Carmen went to pick up Lou, Gora, and Tars from the house where they were staying and took them back to the Olopai property in Chalan Kiya near Saipan Country Club ("the Golf").[3] Rufina passed away later that evening. Ignacio returned to the Golf for Rufina's funeral but left shortly thereafter, leaving the children behind. Lou was eight years old, Gora was three, and Tars was one.[4]

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[1] The other children living with Camilla were Concepcion, Enrique, Ambrosio, and Dora. Camilla's remaining child, Jesus, was adopted by another family.

[2] Lou gave conflicting testimony on this point. She testified that she was at the hospital and Rufina asked Nana Ghon to care for the children. The trial court doubted the accuracy of Lou's recollection, considering her young age at the time and the fact that the hospital visit was likely traumatic.

[3] Members of the family and witnesses refer to this property by different names, but it is primarily referred to as "the Golf."

[4] Ramon was already living with Nana Ghon and the Olopai family when Rufina died. Mercedes had already been adopted by Rufina's family.

¶ 5 At some point following Jose's death, Nana Ghon approached Carmen on Timmo's behalf, asking for permission to adopt Carmen's daughter Jennifer. Carmen and her husband agreed to the adoption. Timmo raised Jennifer as his own daughter, and she lived with him until she left Saipan to attend college. She returned after college and lived with Timmo until his death.

¶ 6 Timmo and Nana Ghon cared for all of the children in the household as if they were their own. According to both Manny and Tars, they lived in Chalan Kanoa with Timmo, Nana Ghon, Lou, and Gora for several years while Camilla and her children lived at the Golf. According to Manny, the family moved between Chalan Kanoa and the Golf during the years around Typhoon Jean in 1968, but the family, including Camilla and her children, eventually settled at the Golf. The property at the Golf developed into a family compound, consisting of several small homes close together. Timmo provided substantial financial support for several of the children. He continued to support the children into adulthood, including paying for Tars's and Manny's college tuition. All of the children considered him to be their father.

¶ 7 Both Manny and Tars developed strained relationships with Timmo later in adulthood. After dropping out of college around 1982, Tars returned to the Golf and lived with Timmo. However, Timmo forced him to move out in 1987 following a disagreement regarding Tars's relationship with a woman. They had another similar disagreement around 2003. Likewise, Timmo and Manny became estranged in 1991 following a disagreement over Manny's romantic relationship. After that, they only spoke on two occasions—in 1999 when Camilla died and around 2003 following the death of Jennifer's brother, James Tanaka.

¶ 8 Nana Ghon died in 1992. In 2004, Timmo became seriously ill and began undergoing dialysis treatment. Timmo's nieces and nephew, Jennifer, Sonia Olopai, and John Taitano were his primary caretakers. Tars also visited and took him to dialysis on occasion. Timmo died intestate and unmarried on May 4, 2008.

¶ 9 Jennifer petitioned for letters of administration, naming only Timmo's legally adopted son, Alam Olopai, as an heir. The trial court appointed her as administratrix of the estate. Gora, Lou, Manny, and Tars filed a claim as heirs, arguing they were Timmo's adopted sons and daughters through mwei mwei. Jennifer opposed this claim. The court denied Jennifer's motion to amend her petition to include herself as an heir, but allowed her to proceed as a mwei mwei heir claimant.

¶ 10 The trial court held a hearing on the mwei mwei claims. At the hearing, Carmen testified in support of Jennifer's claim. Camilla, Ignacio, and Rufina were all deceased and therefore unable to provide direct testimony regarding the circumstances of the adoptions. However, Timmo's relative, Melvin Faisao ("Faisao"),[5] testified extensively in support of Tars's and Manny's mwei mwei claims. Following the hearing, the trial court found that Timmo adopted Jennifer, Manny, and Tars, but not Gora and Lou. Accordingly, the court

[5] The trial court also qualified Faisao as an expert in Carolinian culture and traditions.

ordered that Alam, Jennifer, Manny, and Tars would inherit from the estate. Jennifer appeals the trial court's determination on Timmo's adoption of Manny and Tars.

II. JURISDICTION

¶ 11 We have jurisdiction over final judgments and orders of the Commonwealth Superior Court. NMI Const. art. IV, § 3; 1 CMC § 3102(a). The Superior Court entered final judgment on May 20, 2013, and Jennifer timely appealed. Accordingly, we have jurisdiction over this appeal.

III. STANDARD OF REVIEW

¶ 12 "Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses." NMI R. CIV. P. 52(a); *see In re Estate of Rofag*, 2 NMI 18, 31 (1991). This matter was heard as a bench trial. As such, the trial court entered findings of fact and conclusions of law pursuant to Rule of Civil Procedure 52(a).

¶ 13 A review of federal case law supports clear error review of the trial court's findings of fact.[6] *See, e.g., Anderson v. Bessemer City*, 470 U.S. 564, 575 (1985) ("[R]eview of factual findings under the clearly-erroneous standard—with its deference to the trier of fact—is the rule, not the exception."); *Tonry v. Security Experts, Inc.*, 20 F.3d 967, 970 (9th Cir. 1994) ("In reviewing a judgment following a bench trial, we review the district court's findings of fact for clear error and its legal conclusions de novo.") (citing FED. R. CIV. P. 52(a)). Likewise, we review the trial court's factual findings for clear error.[7] *See Rofag*, 2 NMI at 31 ("Findings of fact . . . shall not be set aside unless clearly erroneous . . . .") (quoting NMI R. CIV. P. 52(a)) (internal

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[6] Because NMI Rule of Civil Procedure 52(a) is substantially similar to Federal Rule of Civil Procedure 52(a), reference to federal case law is instructive. *See Ishimatsu v. Royal Crown Ins. Corp.*, 2010 MP 8 ¶ 60 ("when our rules are patterned after the federal rules it is appropriate to look to federal interpretation for guidance").

[7] Jennifer argues the Court should review the issue de novo based on the standard provided in *Isla Financial Services v. Sablan*, 2001 MP 21 ¶ 3. *Sablan*'s de novo standard of review language derives from *United Enterprises*, 4 NMI 304, 306 (1995), which in turn cites *In re Estate of Deleon Castro*, 4 NMI 102, 105 (1994). In considering the sufficiency of the evidence to support the trial court's authentication of a document under Rule of Evidence 901(a), *Deleon Castro* noted that "whether sufficient evidence supports a court's finding is a legal conclusion reviewable de novo." 4 NMI at 105 (citing *Coronado Mining Corp. v. Marathon Oil Co.*, 577 P.2d 957, 960 (Utah 1978)). However, *Coronado Mining Corp.* is specifically applicable to appellate review of judgments taken as a matter of law in jury trials pursuant to Rule of Civil Procedure 50. *See* 577 P.2d at 960 ("A finding of insufficiency of evidence to support a finding of fact is properly a conclusion of law rather than a finding of fact, and is for [appellate courts] to determine." The court granted the defendant's motion for judgment notwithstanding the verdict and entered "findings of fact" stating the evidence was insufficient as a matter of law to support the jury's answer for each interrogatory).

quotation marks omitted). "Unless we are firmly convinced that a mistake was clearly committed below, we will not disturb [the trial court's] assessment." *Manglona v. Kaipat*, 3 NMI 322, 336 (1992). We ask "whether the evidence, viewed in a light most favorable to the prevailing party, is sufficient to support the conclusion of the fact-finder." *In re Estate of Malite*, 2011 MP 4 ¶ 17 (citing *Manglona*, 3 NMI at 329).

IV. DISCUSSION

¶ 14 We consider whether the evidence was sufficient to support the trial court's determination that Timmo, who died intestate, customarily adopted Manny and Tars. For the purposes of intestate succession, "[u]nless the family consents or agrees otherwise, a person adopted by law or custom into a Carolinian family shall be treated . . . as if he were born into the Carolinian family." 8 CMC § 2908. Thus, a child adopted through the Carolinian custom of mwei mwei is entitled to inherit from the adoptive parents. *See Malite*, 2011 MP 4 ¶ 1 (affirming trial court decision finding mwei mwei adoption and recognizing adoptee as heir to the estate). Under mwei mwei, "the adopting parents propose to adopt a child and the natural parents must give their consent." *Rofag*, 2 NMI at 23 n.3.

¶ 15 Direct evidence of a mwei mwei adoption will often be unavailable. In determining whether an adoption occurred, courts may consider eight nonexclusive factors: (1) whether the natural parents consented to the adoption, (2) the child's age at the time of adoption, (3) whether the adoption was between relatives, (4) whether women initiated the adoption, (5) whether the adopting parent was married, (6) whether the community was aware of the adoption, (7) whether the natural parent reclaimed the adoptee, and (8) whether the adoptee was the natural parent's only child. *Malite*, 2011 MP 4 ¶¶ 12, 14. No individual factor is dispositive; rather, the trial court must consider the totality of the circumstances. *Id.* ¶¶ 14, 30. The party claiming to be a mwei mwei adoptee bears the burden of proof by a preponderance of the evidence. *See Rofag*, 2 NMI at 29.

1. Consent of Natural Parents

¶ 16 We first consider whether the natural parent consented to the adoption. "Customarily, the adopting parents propose to adopt a child and the natural parents must give their consent." *Rofag*, 2 NMI at 23 n.3. Circumstantial evidence is sufficient to prove consent to a mwei mwei adoption. *Malite*, 2011 MP 4 ¶ 28. Though direct evidence of consent may be more persuasive, such evidence is often unavailable due to the lengthy delays associated with probate cases. *Id*. Indeed, the adoptive and natural parents may be long-since deceased by the time an estate is probated. *Id*.

¶ 17 Jennifer argues the trial court erred by inferring consent based upon Faisao's testimony. She contends the evidence clearly indicated Camilla and her children, including Manny, all lived with Timmo. Additionally, she asserts Tars's father, Ignacio, allowed Nana Ghon to raise his children but he did not consent to adoption. She further argues the evidence does not indicate Manny and Tars were mwei mwei adoptees, but instead that they were raised under the Carolinian custom of fa'am, which is similar to a foster parent relationship. Under fa'am, the child is not entitled to inherit from the foster parent. *Id.* ¶ 15.

¶ 18 "[A]n agreement or dialogue concerning the adoption is a critical distinguishing factor" between mwei mwei and fa'am. *Id.* ¶ 16. In *Malite*, there was no direct evidence of an adoption dialogue between the adopting and natural parents. However, in light of evidence that the adopting parent took the child to live on an outer island of Chuuk, the trial court noted it was unlikely the child was fa'am. *Id.* We indicated the trial court could consider the move circumstantial evidence that the natural and adopting parents discussed the adoption and ultimately consented. *Id.* We then concluded that the weight of the circumstantial evidence sufficiently supported the inference of the natural parents' consent. *Id.* ¶¶ 27–29.[8]

¶ 19 Here, there was ample circumstantial evidence from which the trial court could infer Camilla's consent to Manny's adoption. When Timmo went to Hawaii for school, he gave Manny power of attorney, allowing Manny to cash checks to pay for the family's food. Timmo supported Manny into adulthood, paying for his college until he left to join the military. When Manny left the military and returned to Saipan, Timmo continued to try to exert fatherly influence over him. In particular, the estrangement resulting from Timmo's disapproval of Manny's romantic relationship demonstrated his expectation that he should continue to have fatherly authority. The trial court could reasonably find this father-son relationship indicated Timmo acquired Camilla's consent to the adoption.

¶ 20 Likewise, there was ample evidence from which the trial court could infer Ignacio's consent to Tars's adoption. The trial court found "compelling evidence of a father-son relationship" and that it would be "highly unlikely Timmo would have devoted so much of his time, money and energy to raising and supporting Tars unless Timmo had acquired Ignacio's and Rufina's consent to adopt him." *In re Estate of Olopai*, Civ. No. 09-0379 (NMI Super. Ct. May 13, 2013) (Findings of Fact and Conclusions of Law at 12) [hereinafter Findings]. Timmo was intimately involved in Tars's upbringing, exercising significant influence over his affairs, attending his important events, and disciplining him when necessary. Timmo continued to care for Tars into adulthood by sending him to college in Guam, paying his rent, and allowing him to move back home after leaving college in 1982. However, in 1987, Timmo forced Tars to move out due to Timmo's disapproval of Tars's relationship with a woman. The extent to which Timmo was involved in Tars's life, from childhood well into late adulthood, demonstrates a strong father-son relationship. Furthermore, Ignacio's wife, Rosalia Kaipat ("Rosalia"), testified that Ignacio left the children with Timmo and considered the children to be Timmo's.[9] Like the move to Chuuk in *Malite*, the strength of the father-son

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[8] In *Malite*, we noted that testimony regarding the adoptee's move to the outer islands of Chuuk was "unusual and particularly compelling." 2010 MP 4 ¶ 29. Jennifer argues that neither Manny nor Tars provided similarly compelling evidence in support of their own claims. However, in *Malite*, we did not establish a requirement that mwei mwei claimants offer compelling evidence. Rather, we merely commented on the nature of the circumstantial evidence in that particular case.

[9] There was some conflicting evidence suggesting that Ignacio attempted to reclaim Tars, Lou, and Gora, but Timmo refused the attempt. The court reasoned that his

relationship offered circumstantial evidence from which the trial court could infer the natural parent's consent to the adoption.[10] Accordingly, the trial court did not clearly err by finding this factor weighed in favor of mwei mwei adoption.

2. Age at Time of Adoption

¶ 21 The second factor we examine is the age at which the child was adopted. Mwei mwei adoptions typically occur when the adoptee is a baby. *Malite*, 2011 MP 4 ¶ 20. However, "there is evidence that a child who is nine, ten, or eleven years old could be customarily adopted, depending on the circumstances." *Id.* (quoting *Rofag*, 2 NMI at 23 n.3) (internal quotation marks omitted).

¶ 22 Jennifer contends this factor should not weigh in favor of mwei mwei adoption because there is no evidence of an adoption dialogue. Thus, the trial court could not ascertain the age of either Manny or Tars at the time of adoption.

¶ 23 This argument is unconvincing. Under the *Malite* test, we do not require direct evidence of the adoptee's age at the time of the adoption dialogue. Such a requirement would frustrate mwei mwei claims because the participants of the adoption dialogue will often be deceased by the time the estate reaches probate. *See supra* ¶ 16; *Malite*, 2011 MP 5 ¶ 28.

¶ 24 Rather, the age at the time of adoption can be demonstrated circumstantially. In *Malite*, for example, we considered circumstantial evidence of an adoptee's young age, including testimony that the adoptee and adopting parent were seen eating together from the same bowl when the adoptee was just a boy. 2011 MP 4 ¶ 20. Similarly, in *In re Estate of Amires*, we reviewed the trial court's determination concerning the age that mwei mwei claimants were "brought into [d]ecedent's household . . . ." 1997 MP 8 ¶ 17.

¶ 25 Both Manny and Tars were within the appropriate age range in which a mwei mwei adoption can occur. Tars was one year old when his mother died and he was brought into Timmo's household. Manny was around five when he began living with Timmo.[11] Thus, the trial court did not clearly err by finding that age weighed in favor of finding mwei mwei adoptions.

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refusal was circumstantial evidence weighing in favor of finding mwei mwei adoptions. The court ultimately denied Lou's and Gora's claims because other *Malite* factors weighed against mwei mwei.

[10] The record contains no evidence supporting a finding that Rufina could have consented to the adoption because she was found unconscious at the hospital. However, the trial court could nonetheless find this factor to weigh in favor of mwei mwei because Ignacio could have consented to the adoption.

[11] The testimony was conflicting as to Manny's age at the time he began living with Timmo and whether Camilla resided with them. Carmen testified that Manny began living with Timmo and Nana Ghon from the time he was born. She further testified that Camilla was also living there at the time. However, there was also testimony from both Manny and Tars that Camilla did not permanently live with them. Manny specifically testified that his earliest memory was sometime around first grade when he lived with Timmo in Chalan Kanoa while Camilla lived at the Golf. In light of the

3. Adoption Between Relatives

¶ 26 Next, we consider whether the adoption occurred between relatives. Jennifer concedes that the adoption was between relatives. However, she argues this finding should not weigh heavily because in Carolinian families, immediate family members often continue living in the same household through adulthood. Thus, when a child lives with a non-parent adult in a Carolinian family, it is not particularly probative of whether the child was adopted by that adult. She asserts that the factor is more meaningfully applied in the negative—that is, evidence of a child living with a non-relative would weigh heavily against mwei mwei.

¶ 27 We do not find this argument persuasive. "The assessment of evidence is a trial function." *Manglona*, 3 NMI at 336. Here, it is uncontested that the adoption took place between relatives. Timmo, Ignacio, and Camilla were siblings. The trial court found: "Timmo was the Claimants' uncle. This factor weighs in favor of finding a mwei mwei adoption." Findings at 13. There is no indication this factor weighed heavily in the trial court's analysis. This was simply one of eight factors the court evaluated in determining whether Manny and Tars were customarily adopted. Therefore, we are not firmly convinced that the trial court made a clear mistake with the particular weight accorded to this factor.

4. Adoption Initiated by Women

¶ 28 The fourth factor is whether the adoption was initiated by women. The trial court found this factor neutral because either a male or a female could have initiated the adoptions. The court reasoned that Timmo, Ignacio, Rufina, or Camilla could have initiated the adoptions. Jennifer contends this factor should have weighed heavily against finding a mwei mwei adoption because the evidence did not establish that Nana Ghon or any other woman mweiti[12] Manny and Tars on Timmo's behalf.

¶ 29 The record does not support a finding that Rufina could have initiated the adoption because she was unconscious at the hospital when Timmo took Tars into his household. Furthermore, Rufina, Ignacio, and Camilla were unable to testify to the circumstances of the adoption because they were deceased by the time of the trial. Consequently, the record contains no evidence as to whether Nana Ghon or Camilla could have initiated the adoptions, or that Timmo initiated the adoptions himself. The absence of evidence does not equate to affirmative evidence that women did not initiate the adoptions. By finding this factor neutral, the court acknowledged the evidence did not tend to prove or disprove the mwei mwei claims. Thus, the trial court did not clearly err by deeming this factor neutral.[13]

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conflicting testimony, we cannot conclude that the trial court's findings of fact were clearly erroneous.

[12] According to Carmen Tanaka's expert testimony, mweiti is the act whereby the adopting parent receives a mwei mwei adoptee from the natural parents.

[13] Manny and Tars also argue that a mwei mwei adoption could be initiated by a male or that a male could ask a female to mweiti the child. Expert testimony from Carmen

5. Marital Status of Adopting Parent

¶ 30 Fifth, we consider whether the adopting parent was married at the time of the adoption. Because Timmo remained unmarried throughout his life, the trial court found this factor weighed against finding a mwei mwei adoption.

¶ 31 Jennifer argues the trial court did not weigh this factor heavily enough. She contends that it would be unusual for a twenty-one year old single man to customarily adopt a child. Her argument is unavailing. Weighing and evaluating evidence is a task within the trial court's purview. While it may be unusual for a young, single parent to adopt a child through mwei mwei, we cannot say the trial court clearly erred with the weight it assessed to this factor.

6. Community Awareness

¶ 32 The sixth factor we consider is "whether the entire community is made aware of the mwei mwei adoption." *Malite*, 2011 MP 4 ¶ 23. Jennifer argues the evidence was insufficient to support the trial court's determination that the community was aware of Manny's and Tars's adoptions. She asserts Timmo held them out as being raised under the Carolinian custom of fa'am, also known as ffóól. Two of Timmo's nephews, George Fitial ("Fitial") and John Taitano, testified that Timmo referred to Manny and Tars as "faal." While Fitial believed "faal" was the equivalent of son and daughter, Carmen testified "faal" was synonymous with "fa'am," which meant "to raise." On the other hand, Fitial and Faisao testified that Timmo referred to Manny and Tars as "layuul" or "leeyii," consistent with mwei mwei practice. According to Faisao, after an adopting parent accepts a child, the parent conveys the adoption to the community by referring to the child as "layuul," "leeyii," or "leeyii mwei-mwei" in communications with family members or other members of the community. Furthermore, Faisao noted that he and his family considered Manny and Tars to be Timmo's mwei mwei sons, and that it was well known within the community that Jennifer, Manny, and Tars were all Timmo's children.

¶ 33 Jennifer also claims Timmo favored her and held her out to the community as special, thereby indicating she was his only customarily adopted child. Though Timmo may have given her special treatment and held her out as a favorite, such treatment would not necessarily preclude Manny and Tars from also being Timmo's adopted children.

¶ 34 Jennifer further contends Manny's and Tars's immediate family members were unaware of any mwei mwei adoption, and it is therefore unlikely the community could have been aware of such adoptions. She specifically contests the credibility of Faisao's lay testimony, asserting that all the other testimony indicates the community was unaware of the adoptions. But deference is due to the trial court's assessment of witness's credibility. NMI R. CIV. P. 52(a). The trial court was in the best position to assess contradictory testimony regarding the community's awareness of the adoptions. *See Rofag*, 2 NMI at 31 ("We will

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Tanaka supports this assertion. However, the trial court did not indicate whether it found this testimony persuasive nor did it reference the testimony in its Findings of Fact and Conclusions of Law.

accord particular weight to a trial judge's assessment of conflicting and ambiguous evidence."); *Malite*, 2011 MP 4 ¶ 19 (affirming the trial court's determination that Jesus Somol was the mwei mwei son of Remedio Malite despite conflicting testimony). In *Malite*, there was conflicting testimony regarding the community's awareness. 2011 MP 4 ¶ 19. In particular, members of the adopting parent's family denied an adoption occurred. *Id.* We acknowledged the conflicting testimony, but noted that evaluating the weight of competing evidence is a task entrusted to the trial court. *Id.* ¶ 23. Viewing the conflicting testimony in the light most favorable to the prevailing party, we cannot conclude the trial court clearly erred in finding that this factor weighed in favor of mwei mwei adoption.

7. Reclamation of Adoptee by Natural Parent

¶ 35 The seventh factor we consider is whether the natural parent reclaimed the adoptee. *Malite*, 2011 MP 4 ¶ 24. It is "extremely rare for the natural parents of a mwei mwei adoptee to reclaim the adoptee whereas [f]a'am children normally go back to the natural parents after some time." *Id*. (internal quotation marks omitted). The trial court found that neither Manny's nor Tars's natural parents reclaimed them.

¶ 36 With respect to Manny, Jennifer asserts Camilla never gave him up; therefore, she could not have reclaimed him. However, there was ample evidence Manny did not live with Camilla for any extended period of time. Manny testified that as a young child he lived in Chalan Kanoa with Timmo, Nana Ghon, Carmen, Ana, Tars, Lou, and Gora. At that time, Camilla was living at the Golf with her other children. Tars also testified to living in Chalan Kanoa with Timmo, Nana Ghon, Manny, Lou, and Gora.[14] When Manny was in fifth grade, Timmo moved the family to a wooden house at the Golf, while Camilla and her children continued living separately from them. Manny testified that he lived with Timmo throughout his childhood and only moved back in with Camilla when he was well into his twenties, after returning from college and the military.[15] Thus, the trial court did not commit clear error by finding Camilla did not reclaim Manny.

¶ 37 As to Tars, Jennifer argues that Ignacio did not attempt to reclaim him because Ignacio was raising a family of five new children with Rosalia. Her argument is unpersuasive. First, Ignacio's reason for not reclaiming his child is immaterial. We do not consider why a natural parent failed to reclaim the adoptee; instead, we ask if the natural parent reclaimed the adoptee. Second, although there was conflicting evidence regarding whether Ignacio attempted to reclaim Tars, the evidence demonstrates he never actually reclaimed Tars. The trial court found that Ignacio argued with Timmo about wanting to reclaim his children, but Timmo refused. Additionally, Rosalia testified that Ignacio told

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[14] Tars also indicated that another one of Camilla's children, Enrique, lived with the family at Chalan Kanoa. This testimony contradicts Manny's but is irrelevant to our analysis.

[15] Manny also testified that the entire family, including Camilla and her children, lived together for some time after the wooden house at the Golf was destroyed by Typhoon Jean.

her to let Tars stay with Timmo and recognized him to be Timmo's child. While these findings may be in tension with one another, the trial court is tasked with assessing contradictory evidence. *See id.* ¶ 23. Because Rosalia's testimony supports the finding that Ignacio did not attempt to reclaim Tars, the trial court did not commit clear error.

8. Adoptee as Natural Parent's Only Child

¶ 38 The eighth and final factor we consider is "whether the adoptee is the natural parent's only child." *Id.* ¶ 25. Natural parents rarely give up their only child for adoption. *Id.* ¶¶ 14, 25. Neither Manny nor Tars were only children. Jennifer does not contest the trial court's determination that this factor weighed in favor of a mwei mwei adoption.

¶ 39 Viewing the evidence in the light most favorable to prevailing parties, there was sufficient evidence supporting the trial court's determination that Timmo customarily adopted Manny and Tars. The trial court properly found that of the eight *Malite* factors, only one—whether the adopting parent was married—weighed against mwei mwei adoption. One other factor, whether women initiated the adoption, was neutral. The six remaining factors all weighed in favor of mwei mwei adoption. Thus, we are not left with a firm and definite conviction that the trial court clearly erred by finding Manny and Tars were Timmo's mwei mwei sons.

V. CONCLUSION

¶ 40 For the reasons stated herein, we AFFIRM the trial court's judgment.

SO ORDERED this 7th day of July, 2015.

/s/
ALEXANDRO C. CASTRO
Chief Justice

/s/
JOHN A. MANGLONA
Associate Justice

/s/
PERRY B. INOS
Associate Justice