

Appellant claimed under Ngirakoranges pursuant to an alleged oral will. The Trial Court made a specific finding of fact that there had been no will.

[1, 2] Appellant thus seeks to have this Court reweigh the evidence. That is not a proper function of an Appellate Court; we have regularly so held, and are prohibited from setting aside a finding of fact of the Trial Division "unless clearly erroneous." 6 TTC sec. 355.

We find ample evidence in the record to sustain the Court's findings, and no error of any nature.

THE JUDGMENT IS AFFIRMED.

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In the Matter of the Estate of JOSE S. IGISAIAR

Civil Appeal No. 211

Appellate Division of the High Court

Mariana Islands District

June 5, 1978

Appeal regarding distribution of assets of estate. The Appellate Division of the High Court, per curiam, held that determination below would not be set aside as it was not clearly erroneous.

**Appeal and Error—Findings and Conclusions—Tests**

Determination of trial court would not be set aside where it was not clearly erroneous. (6 TTC § 355(2))

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*Counsel for Appellant:* DOUGLAS F. CUSHNIE, ESQ.  
*Counsel for Appellee:* MICHAEL A. WHITE, ESQ.

Before HEFNER, *Associate Justice*, NAKAMURA, *Associate Justice*, and GIANOTTI, *Associate Justice*

PER CURIAM

This appeal concerns the distribution of two major assets of the estate of Jose S. Igisaiar. The original petition

IN RE ESTATE OF IGISAIAR

for the appointment of an Administrator of the estate only listed cash in the amount of \$28,808 from Decision No. 6954, Micronesian Claims Commission. However, in issue is also the claim of appellants to land prescribed as Lot 1805, Chalan Lau Lau, Saipan, Mariana Islands. Damage to Lot 1805 was the basis for the claims award. In addition, there is property known as Lot 1, Block 20, South Garapan, on Saipan.

The Administrator of the estate proposed to distribute the estate to the children of Jose S. Igisaiar. The appellants objected and essentially claimed  $\frac{1}{2}$  of the claims award and a  $\frac{1}{2}$  interest in Lot 1805.

The appellants are the heirs of Maria Seletemar Kanis who was a sister of Maria Seletemar Lisouguscheung. The latter was the mother of Jose S. Igisaiar.

The appellants asserted at trial that the land in dispute was jointly owned by the two sisters, and though Kanis left for Truk in 1920, she and her heirs still retain an interest in the property according to Carolinian custom.

The appellee's position is that the land was owned by Pedro Igisaiar, Jose S. Igisaiar's father. It is asserted that the land was inherited by Jose on Pedro's death and that neither Kanis nor Lisouguscheung had an interest in the land.

The Trial Court determined the factual dispute in favor of the appellee and this finding shall not be set aside by the Appellate Division unless clearly erroneous. 6 TTC 355(2).

A review of the transcript and exhibits does not reveal a basis upon which this Court could or should disturb the lower Court's factual finding.

Consequently, appellants' arguments relating to Carolinian custom are not applicable since the assertion of the appellants that the property was jointly owned by the two sisters, Kanis and Lisouguscheung, was rejected.

The judgment of the Trial Court is AFFIRMED.