

affirmed the Kosrae Land Court Ruling, will not be disturbed and therefore Stephinsin Ittu owns parcel no. 006M10, without any boundary changes in favor of Joseph Ittu, although the Joseph Ittu does have a right of ingress/egress over parcel no. 006M10 to reach his land-locked lot in plat no. 047M00.

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FSM SUPREME COURT APPELLATE DIVISION

HEIRS OF ISAIAH BENJAMIN,)	APPEAL CASE NO. K4-2014
)	
Appellants,)	
)	
vs.)	
)	
HEIRS OF CLINTON BENJAMIN,)	
)	
Appellees.)	
_____)	

OPINION

Argued: July 29, 2015
Decided: September 25, 2015

BEFORE:

Hon. Ready E. Johnny, Acting Chief Justice, FSM Supreme Court
Hon. Bealeen Carl-Worswick, Associate Justice, FSM Supreme Court
Hon. Camillo Noket, Specially Assigned Justice, FSM Supreme Court*

* Chief Justice, Chuuk State Supreme Court, Weno, Chuuk

APPEARANCES:

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HEADNOTES

Appellate Review – Standard – Civil Cases – Factual Findings

Appeals from Kosrae Land Court decisions are decided by applying the "substantial evidence rule" and, except for the official record, no evidence or testimony is considered at the appeal hearing. If the Kosrae State Court finds that the Land Court decision was not based upon substantial evidence or that the Land Court decision was contrary to law, it must remand the case to the Land Court with instructions and guidance for rehearing the matter in its entirety or such portions of the case as may be appropriate. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 192-93 (App. 2015).

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Appellate Review – Standard – Civil Cases

Caselaw mirrors the statutory directive that the Kosrae State Court, when reviewing Land Court decisions, must focus on whether the lower court decision was predicated on substantial evidence and not contrary to law. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 193 (App. 2015).

Evidence – Burden of Proof

Substantial evidence is evidence which a reasoning mind would accept as sufficient to support a conclusion and it consists of more than a scintilla of evidence but may be less than a preponderance. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 193 (App. 2015).

Appellate Review – Standard – Civil Cases

The standard of review for Kosrae Land Court decisions, by not only the Kosrae State Court but also the FSM Supreme Court, is whether the record contains evidence supporting the Land Court decision that was more than a mere scintilla or even more than some evidence, and if there was, the Land Court decision must be affirmed even if the evidence would not amount to a preponderance of the evidence but would be somewhat less and even if the State Court would have decided it differently. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 193 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

The standard of review, concerning a trial court's findings of fact, is whether such determination is clearly erroneous. A trial court's findings are presumptively correct. When trial court findings are alleged to be clearly erroneous, an appellate court can find reversible error only if: 1) the trial court findings were not supported by substantial evidence in the record; or 2) the trial court's factual finding was the result of an erroneous conception of the applicable law or 3) after reviewing the entire body of evidence and construing it in a light most favorable to the appellee, the appellate court is left with a definite and firm conviction that a mistake has been made. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 193-94 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

In order to be clearly erroneous, a decision must strike the appellate court as more than just maybe or probably wrong; it must strike the appellate court as wrong with the force of a five-week-old unrefrigerated dead fish. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 194 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

An appellate court cannot substitute its judgment for that of the trial court. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 194 (App. 2015).

Appellate Review – Standard – Civil Cases

The standard of review to be utilized by the FSM Supreme Court, when scrutinizing a Kosrae State Court decision that reviewed a Land Court decision, is whether the Kosrae State Court abused its discretion by failing to properly apply its standard of review. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 194 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

An appellate court, in determining whether a factual finding is clearly erroneous, must review the evidence in a light most favorable to the appellee. The reviewing court will set aside a finding of fact only when there is no credible evidence in the record to support that finding, in part, because the trial court had the opportunity to observe the witnesses' demeanor, alongside their respective testimony. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 194 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

When, after having pored over all the evidence in the record, the appellate court is left with the firm conviction that a mistake has been made, it may then conclude that the trial court finding was clearly erroneous, but it cannot substitute its judgment for that of the trial court. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 194 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

When the FSM Supreme Court determines the Kosrae State Court decision contained a sufficiently comprehensive analysis, referencing the factors taken into consideration in formulating its ruling and when one can safely deduce from the Kosrae State Court's memorandum of decision that it found substantial evidence propounded in the Land Court to support its decision and therefore affirmed same, the FSM Supreme Court appellate division will find that the Kosrae State Court decision, affirming the Land Court ruling, was accurate, given a fastidious review of the entire evidence and resultant absence of a definite/firm conviction that any mistake had been committed. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 194 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

A determination that substantial evidence supports the finding, does not mean the evidence must be uncontroverted or undisputed, but if findings are adequately supported and the evidence reasonably assessed, the findings will not be disturbed on appeal. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 195 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

A reviewing court will take every precaution not to second guess a trial court's finding of fact because, when the admissibility of certain evidence is questioned on appeal, the relevant inquiry is whether there is other credible evidence in the record to support the trial court's finding of fact, which an appellate court should not set aside. When there is credible evidence in the record to support that finding, in part because the trial court has the opportunity to view the witnesses and the manner of their testimony, the reviewing court should not substitute its judgment for the lower court's well-founded findings. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 195 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

An appellate court cannot say that the trial court's finding was clearly erroneous when it was the result of weighing conflicting evidence. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 195 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

When the trial judge believed one witness's testimony and not the other's and gave an extensive analysis of the testimony before it that led to that conclusion, there is no reason for the appellate court to disturb this conclusion, as it was supported by credible evidence and the trial court had the opportunity to observe the witnesses and the manner of their testimony and the appellate court did not have that opportunity. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 195 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

When the Kosrae State Court's memorandum of decision contained a detailed analysis which cogently recapped the aggregate testimony from the Land Court and thoroughly reviewed the record, including the Land Registration Team's finding of fact and was privy to the appellants' appellate brief and when that court undertook a painstaking review to substantiate its respective ruling, its memorandum of decision was sufficiently comprehensive to refute the appellants' position. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 195-96 (App. 2015).

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Appellate Review – Briefs, Record, and Oral Argument

It is not the court's responsibility to search the record for errors; the parties' briefs must clearly denote those portions of the record that support their arguments. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 196 (App. 2015).

Appellate Review – Briefs, Record, and Oral Argument

By statute, the Kosrae State Court decides appeals from the Land Court on the parties' briefs and no evidence or testimony will be considered, except the official record, transcripts, and exhibits received at the Land Court hearing. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 196 (App. 2015).

Appellate Review – Briefs, Record, and Oral Argument

It is incumbent on the appellants to ensure that any alleged "essential facts" are made part of the record for the appellate court. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 196 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

An appellants' claim that a lower court decision did not address all the issues raised, is not a basis for remand, as long as the decision denotes the essential facts that provide a basis for such ruling. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 196 (App. 2015).

Appellate Review – Standard – Civil Cases – Factual Findings

The test, with respect to the adequacy of the findings, is whether they are sufficiently comprehensive and pertinent to the issue, in terms of formulating a basis for the decision. A court need not state why it did not consider an issue or fact; it need only make a finding of such essential facts as provide a basis for the decision. Simply because the Kosrae State Court's memorandum of decision did not specifically articulate why sundry "essential facts" cited by the appellants' brief were insufficient to sway that court, does not necessarily imply they were ignored. Heirs of Benjamin v. Heirs of Benjamin, 20 FSM R. 188, 196 (App. 2015).

* * * *

COURT'S OPINION

BEAULEEN CARL-WORSWICK, Associate Justice:

This appeal arises from the February 6, 2014, Kosrae State Court's Decision which affirmed the July 7, 2010, Land Court's Ruling, that the Heirs of Clinton Benjamin owned parcels 022U02, 038U01, as well as 038U03 and the Heirs of Isaiah Benjamin owned parcel 022U01.

Appellants/Heirs of Isaiah Benjamin seek this Court's review of the Kosrae State Court's Decision. Oral Argument was held in Kosrae on July 29, 2015, at which, only the Heirs of Isaiah Benjamin were represented by Counsel.

I. BACKGROUND

The land in issue, located within the Utwe Municipality, was originally owned by Joseph Benjamin, the family patriarch. Joseph Benjamin had three sons: Isaiah Benjamin, Tolenna Joseph and Clinton Benjamin. In 1987, the subject property was designated a land registration area and the parties submitted their respective applications. Both preliminary and formal hearings were held in March and June of 1988 and on September 27, 1988, the Land Registration Team issued a Finding of Fact, which

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found in favor of Isaiah Benjamin. The Kosrae Land Court ultimately heard the case on April 17, 2006 and determined that parcel 038U03 was owned by the Heirs of Isaiah Benjamin and parcel 038U01 belonged to the Heirs of Clinton Benjamin. Following an appeal to the Kosrae State Court, the Land Court Decision was vacated and the matter remanded to the Land Court for further action.

On remand, the case was consolidated, in order to include contiguous parcels 022U01 and 022U02. The Land Court hearings were conducted on November 6, 2008, December 2, 2008, and January 27, 2009, which included a site visit, along with both sides calling various witnesses to buttress their individual claims. Closing arguments were heard on February 19, 2009 and in the wake thereof, the Land Court, on July 7, 2010, issued a Memorandum of Decision.

Documents memorializing the preliminary and formal hearings conducted in 1988, as well as the testimony of numerous witnesses during the Land Court hearings, were taken into consideration before rendering the Memorandum of Decision. The Land Court ascribed considerable weight to the testimony adduced from two sons of Isaiah Benjamin: Wilmer Benjamin and Likiak Benjamin, who acknowledged Clinton Benjamin owned land in Wan Utwe and openly developed the parcels to which he laid claim. Accordingly, the Land Court awarded parcels 022U02, 038U01, as well as 038U03 to the Heirs of Clinton and 022U01 to the Heirs of Isaiah.

This Decision was then appealed to the Kosrae State Court, essentially maintaining that an "expressed agreement" by and between the siblings, had been improperly relied upon by the Land Court and absent such reliance, substantial evidence was wanting to support the subject Memorandum of Decision. Oral Argument was entertained by the Kosrae State Court on October 17, 2013 and on February 6, 2014, affirmed the Land Court Ruling.

The Kosrae State Court found that the Land Court Decision was supported by substantial evidence. This evidence consisted of *inter alia*, testimony reflecting the three brothers had agreed to divide the subject property; as well as six witnesses attesting to the fact that Clinton Benjamin owned the land in issue and was forthright, in terms of cultivation efforts undertaken on the parcel(s). The Court similarly took note of testimony from the two sons of Isaiah Benjamin, who, as purportedly adverse witnesses, nevertheless corroborated Clinton Benjamin's ownership of the land in dispute. The State Court referenced the undisputed reality, that the other brother, Tolenna Joseph was the recipient of his piece of real estate, by virtue of the "expressed agreement," thereby lending credence to the existence of a meeting of the minds, with respect to apportioning the Wan Utwe property amongst the three siblings. The Kosrae State Court determination that the Land Court's Decision, was indeed supported by substantial evidence, connotes the Ruling was not contrary to law and as such, the State Court affirmed the Land Court Decision.

II. ISSUES ON APPEAL

- A. Whether the Decision was based on substantial evidence and in conformity with the law?
- B. Whether the Decision, based upon an "expressed agreement," was in error?
- C. Whether the Decision was clearly erroneous?

III. STANDARD OF REVIEW

Kosrae State Code (Kos. S.C.) § 11.614(5)(a) and (b) set forth:

- (a) No evidence or testimony shall be considered at the appeal hearing[,] except those

matters which constitute the official record, transcripts and exhibits received at the Land Court hearing;

(b) The State Court shall decide the matter by applying the "substantial evidence rule" to any decision rendered by the Land Court.

Furthermore, § 11.614(5)(d) spells out:

If the State Court finds the Land Court decision was not based upon substantial evidence or the Land Court decision was contrary to law, it shall remand the case to the Land Court with instructions and guidance for rehearing the matter in its entirety or such portions of the case as may be appropriate.

Kun v. Heirs of Abraham, 13 FSM R. 558, 559 (Kos. S. Ct. Tr. 2005) mirrors the statutory directive of Kos. S.C. 11.614(5)(d), in terms of a review by a State Court, which must focus on whether the lower Court Decision was predicated on substantial evidence and not contrary to law. George v. George, 17 FSM R. 8, 9-10 (App. 2010) followed this lead and found the standard of review on appeal, regarding sufficiency of the evidence, is very limited; only findings that are clearly erroneous can be set aside.

It is well established that the standard of review to be employed by the Kosrae State Court, in ruminating over Land Court appeals, is to consider whether the lower Court: a) exceeded its constitutional or statutory authority; b) conducted a fair proceeding; c) resolved all legal issues in a proper manner and d) proffered evidence was assessed in a reasonable fashion. Nena v. Heirs of Melander, 10 FSM R. 362, 364 (Kos. S. Ct. Tr. 2001); Anton v. Heirs of Shrew, 10 FSM R. 162, 164 (Kos. S. Ct. Tr. 2001).

The standard of review for Kosrae Land Court Decisions, by not only the Kosrae State Court, but the FSM Supreme Court, was crystallized in Heirs of Benjamin v. Heirs of Benjamin, 17 FSM R. 650 (App. 2011); a separate and distinct appeal, albeit involving the same parties as the instant matter.

Substantial evidence is evidence which a reasoning mind would accept as sufficient to support a conclusion and if it consists of more than a scintilla of evidence[,] but may be less than a preponderance. Palsis v. Kosrae, 17 FSM R. 236, 243 (App. 2010); George v. Albert, 17 FSM R. 25, 33 (App. 2010); Nakamura v. Moen Municipality, 15 FSM R. 213, 217 (Chk. S. Ct. App. 2007); Heirs of Mackwelung v. Heirs of Mongkeva, 16 FSM R. 368, 374 (Kos. S. Ct. Tr. 2009). . . .

The State Court thus must determine if the record contained evidence supporting the Land Court decision[,] that was more than a mere scintilla or even more than some evidence. If there was, the State Court must affirm the Land Court decision[,] even if the evidence would not, in the State Court's view, amount to a preponderance of the evidence[,] but would be somewhat less and even if the State Court would have decided it differently.

Heirs of Benjamin v. Heirs of Benjamin, 17 FSM R. 650, 655-56 (App. 2011).

The standard of review, concerning a trial Court's findings of fact, is whether such determination is clearly erroneous. A trial Court's findings are presumptively correct. George v. Albert, 17 FSM R. 25, 30 (App. 2010); George v. George, 17 FSM R. 8, 10 (App. 2010). When trial Court findings are alleged to be clearly erroneous, an Appellate Court can find reversible error only if: 1) the trial Court findings were not supported by substantial evidence in the record; or 2) the trial Court's factual finding

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was the result of an erroneous conception of the applicable law or 3) after reviewing the entire body of evidence and construing it in a light most favorable to the appellee, the Appellate Court is left with a definite and firm conviction that a mistake has been made. Albert 17 FSM R. at 30; George, 17 FSM R. at 9-10. In order to be clearly erroneous, a Decision must strike the Appellate Court as more than just maybe or probably wrong; it must strike the Appellate Court as wrong with the force of a five-week-old unrefrigerated dead fish. Smith v. Nimega, 19 FSM R. 163, 173 (App. 2013).

An Appellate Court cannot substitute its judgment for that of the trial Court. Simina v. Kimeuo, 16 FSM R. 616, 620 (App. 2009). In short, the standard of review to be utilized by the FSM Supreme Court, with respect to scrutinizing a Decision of the Kosrae State Court, which, in turn, was reviewing a Decision of a Land Court, is whether the former abused its discretion, *to wit*: did the State Court fail to properly apply its standard of review, with respect to the particular case.

IV. ANALYSIS

1) *The Decision was predicated upon substantial evidence and consistent with law*

In determining whether a factual finding is clearly erroneous, an Appellate Court must review the evidence in a light most favorable to the appellee. The reviewing Court will set aside a finding of fact only where there is no credible evidence in the Record to support that finding, in part, because the trial Court had the opportunity to observe the demeanor of the witnesses, alongside their respective testimony. Rodriguez v. Bank of the FSM, 11 FSM R. 367, 374 (App. 2003).

The aggregate evidence considered by the Kosrae State Court in the case at hand, consisted of, *inter alia*, testimony adduced from six witnesses, including the two sons of Isaiah Benjamin; the occupancy, as well as development of the subject land and acknowledgment of the remaining brother's (Tolenna Joseph) receipt of his respective Wan Utwe property, ostensibly based on an "expressed agreement" between the brothers which divided up the land, constituted substantial evidence supporting the ownership claim of Clinton Benjamin, concerning the land in issue.

After having pored over all the evidence in the Record, if the Appellate Court is left with a firm conviction that a mistake has been made, it may then conclude that the finding of the trial Court was clearly erroneous, but it cannot substitute its judgment for that of the trial Court. Livaie v. Wellbacher, 13 FSM R. 139, 143 (App. 2005). Conversely, this Court determines the Decision issued by the Kosrae State Court contained a sufficiently comprehensive analysis, referencing the factors taken into consideration, in terms of formulating the subject Ruling. One can safely deduce from this Memorandum of Decision, that the Kosrae State Court found the existence of substantial evidence propounded in the Land Court to support the respective Decision and as a result, affirmed same. This Court similarly finds that the Decision rendered by the Kosrae State Court, affirming the Land Court's Ruling, was accurate, given a fastidious review of the entire evidence and resultant absence of a definite/firm conviction that any mistake had been committed. Kinere v. Kosrae, 6 FSM R. 307, 309 (App. 1993).

2) *The Decision was not exclusively contingent upon an acknowledged "expressed agreement."*

The Heirs of Isaiah Benjamins' contention that the Decision issued by the Kosrae State Court was fashioned from solely relying on an "expressed agreement," is belied by the recitation of that Court's well-grounded reasoning, as set forth in the Memorandum of Decision:

Based upon the record and transcripts in this matter, arguments made at the hearing and applicable law, I find the lower Court's Decision supported with substantial evidence . . .

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The Court has carefully reviewed the Kosrae Land Court record for [the parcels in issue]. The records include documents from preliminary and formal hearings. The Kosrae Land Court identified evidence from the witnesses' testimony and concluded there was substantial evidence supporting the claim of the appellees. . . . The testimonial evidence included the statements that the three brothers . . . made an agreement to divide up the property Wan Utwe. The lower Court, although recognizing there was no written agreement, decided there was an expressed agreement between the brothers to divide Wan Utwe. The lower Court based its findings on the testimony and from [the] existing physical appearance of actual usage and development over Wan Utwe by the three brothers. Evidence showed the heirs of Isaiah Benjamin used and cultivated some part of Wan Utwe. Testimonial evidence revealed also that Clinton Benjamin and his children used and did some development on the property, Wan Utwe.

[Six witnesses] all made statements saying that Clinton Benjamin owns land in Wan Utwe. Without resorting to an alleged expressed agreement, still the statements from these people in the records substantially support Clinton owns some land in Wan Utwe. . . . More appealing is the record showing Isaiah Benjamin's children testifying to facts that Clinton Benjamin used and developed part of Wan Utwe. Later Clinton's son built a home and lived on the land. The testimony of Isaiah Benjamin's son . . . during a formal hearing on July 21, 1988, revealed that Clinton Benjamin notoriously and openly used and developed his portion of Wan Utwe. [Another son of Isaiah Benjamin] also testified to Isaiah Benjamin giving to Clinton Benjamin a portion of Wan Utwe. . . .

Heirs of Benjamin v. Heirs of Benjamin, Memorandum of Decision; Judgment; Order to Land Court, Civ. No. 70-10, at 1-2 (Kos. S. Ct. Tr. Feb. 6, 2014).

A determination, that substantial evidence supports the finding, does not mean the evidence must be uncontroverted or undisputed, but if findings are adequately supported and the evidence reasonably assessed, the findings will not be disturbed on appeal. Heirs of Mackwelung v. Heirs of Mongkewa, 16 FSM R. 368, 374 (Kos. S. Ct. Tr. 2009). A reviewing Court will take every precaution not to second guess the finding of fact by a trial Court. When the admissibility of certain evidence is questioned on appeal, the relevant inquiry is whether there is other credible evidence in the record to support the trial Court's finding of fact, which an Appellate Court should not set aside, where there is credible evidence in the record to support that finding, in part because the trial Court has the opportunity to view the witnesses and the manner of their testimony. George v. Nena, 12 FSM R. 310, 317 (App. 2004). On appeal, the reviewing Court should not substitute its judgment for well-founded findings of the lower Court. Heirs of Palik v. Heirs of Henry, 12 FSM R. 625, 628 (Kos. S. Ct. Tr. 2004).

An appellate court cannot say that the trial court's finding was clearly erroneous when it was the result of weighing conflicting evidence. When the trial judge believed one witness' testimony and not the other's and gave an extensive analysis of the testimony before it that led to the conclusion, there is no reason for the appellate court to disturb this conclusion, since it was supported by credible evidence and the trial court had the opportunity to observe the witnesses and the manner of their testimony and the appellate court did not have that opportunity.

Narruhn v. Aisek, 16 FSM R. 236, 239 (App. 2009).

Under the facts in the case at bar, the Memorandum of Decision issued by the Kosrae State Court contained a detailed analysis which cogently recapped the aggregate testimony from the Land

Court, along with a thorough review of the Record, including the Finding of Fact generated by the Land Registration Team (based on both the preliminary and formal hearings in 1988) and was privy to the Appellate Brief filed by the Heirs of Isaiah Benjamin. In sum, a painstaking review of the aforementioned, *in toto*, was undertaken by the Kosrae State Court to substantiate its respective Ruling. Accordingly, the averment by the Heirs of Isaiah Benjamin, that the Kosrae State Court relied exclusively upon an "expressed agreement," is refuted by the subject Memorandum of Decision, that was sufficiently comprehensive and cited other credible evidence which had been posited.

3) *The Decision took into account the totality of facts and evidence before the Court*

The Heirs of Isaiah Benjamins' final assignment of error claims the Kosrae State Court failed to consider "essential facts" which were purportedly germane to the land dispute. Appellants failed to include either the Memorandum of Decision from the Land Court or the twelve documents, to which reference is made, within their Appellate Brief or the Appendix. Nevertheless, the Heirs of Isaiah Benjamin take issue with the Kosrae State Court, alleging it had been remiss, in terms of not taking the aforementioned into consideration when formulating a Decision.

Rule 10(b)(2) of the FSM Rules of Appellate Procedure states: "If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant shall include[,] in the record[,] a transcript of all evidence relevant to such finding or conclusion." It is not the Court's responsibility to search the Record for errors; briefs of the parties must clearly denote those portions of the Record which support their arguments. Nakamura v. Bank of Guam, 6 FSM R. 224, 228 (App. 1993). It was clearly the duty of Counsel for the Appellants to affix the various documents referenced to the Record proper, yet for some inexplicable reason this did not occur.

By statute, the Kosrae State Court decides appeals from the Land Court on the parties' briefs and no evidence or testimony will be considered, except the official Record, transcripts and exhibits received at the Land Court Hearing. Heirs of Mackwelung v. Heirs of Mongkeva, 16 FSM R. 368, 374 (Kos. S. Ct. Tr. 2009). Although the Kosrae State Court was in receipt of the Appellants' brief and official Record from the Land Court, which was attentively examined before conscientiously rendering the subject Decision, it was nevertheless, incumbent on the Heirs of Isaiah Benjamin to ensure that the alleged "essential facts" contained within the above-mentioned documents were made part of the Record for this Court.

Furthermore, a claim that a Decision did not address all the issues raised, is not a basis for remand, as long as the Decision denotes the essential facts that provide a basis for such Ruling. The test, with respect to the adequacy of the findings, is whether they are sufficiently comprehensive and pertinent to the issue, in terms of formulating a basis for the Decision. A Court need not state why it did not consider an issue or fact; it need only make a finding of such essential facts as provide a basis for the Decision. Simina v. Kimeuo, 16 FSM R. 616, 622 (App. 2009). Simply because the Memorandum of Decision issued by the Kosrae State Court did not specifically articulate why sundry "essential facts" cited within the Heirs of Isaiah Benjamins' brief were insufficient to sway the Ruling from the Bench, does not necessarily imply they were ignored.

V. CONCLUSION

The Decision rendered by the Kosrae State Court, which affirmed the Land Court Ruling, was based on the facts, evidence presented and Record on file. Further, the Memorandum of Decision, not only reflected a comprehensive analysis of the pertinent material *in toto*, but was based on substantial evidence and devoid of any misapplication of either the facts or applicable law.