

WIA, Plaintiff
v.
IOSEF, Defendant
Civil Action No. 53
Trial Division of the High Court
Truk District
June 30, 1958

Action to determine ownership of land on Udot Island. The Trial Division of the High Court, Chief Justice E. P. Furber, held that it was now too late to upset decision of German authorities and that land lawfully belonged to owner designated by those authorities.

1. Former Administrations—Official Acts

It is now too late for courts of present administration to upset decisions of German authorities with respect to ownership of land in Truk.

2. Real Property—Quiet Title—Laches

Where party lets matter rest for long time, there is strong presumption that she agreed to division of land which she did not dispute at the time.

FURBER, *Chief Justice*

FINDINGS OF FACT

1. During the period of the German Administration, the German authorities, after hearing, decided the lands in question were owned by the defendant's father Enikios.

2. Enikios and after him, the defendant Iosef, have used these lands continuously since that decision, under claim of individual ownership.

3. No objection to Enikios' and Iosef's claim of ownership or use of the land was raised by or on behalf of Minata from early Japanese times until shortly before bringing of this action.

CONCLUSIONS OF LAW

[1] 1. Whether or not the decision of the German authorities as to the ownership of this land was correct, it is now too late to expect the courts of this administration to upset that decision. See *Wasisang v. Trust Territory*, 1 T.T.R. 14.

[2] 2. From the long time that Minata (through whom the plaintiff Wia claims) let this matter rest, there is a strong presumption that she agreed to the division of Nukar and Nefo, which the defendant claims was made by Enikios. It should be noted that the defendant has consistently admitted that a part of each of these tracts was given by Enikios to Minata, and that other parts of one or both of the tracts have been lawfully transferred to Tobi, Antasia and Ynouta. This judgment applies only to the parts which the defendant has not admitted were so transferred.

JUDGMENT

It is ordered, adjudged, and decreed as follows:—

1. As between the parties and all persons claiming under them, the part of the land known as Nukar and the part of the land known as Nefo, bearing the name of Enikios on the sketch attached to the pre-trial order in this action, both of which pieces of land are located in Tumuk Village on Udot Island, Truk District, are owned by the defendant Iosef, who lives in Tunuk Village, as his individual land, and the plaintiff Wia, who lives in Monowe Village on Udot Island, has no rights of ownership in them.
2. This judgment shall not affect any rights of way there may be over the lands in question.
3. No costs are assessed against either party.