

**ELENGOI METECHERANG, Plaintiff**

**v.**

**ARIBUK SISANG, and KIUELUUL, Defendants**

**Civil Action No. 378**

**Trial Division of the High Court**

**Palau District**

**October 12, 1972**

Motion to vacate judgment and reopen for admission of newly discovered evidence. The Trial Division of the High Court, D. Kelly Turner, Associate Judge, granted the motion, considered the evidence, and found that it confirmed the judgment.

METECHERANG v. SISANG

Palau Land Law—Lineage Ownership—Administration

Japanese land records of registered leases showing registration of leases to Japanese national and showing party in land title dispute as lessor confirmed judgment that such party was the lineage administrator, with authority to lease the land, but was not the individual owner.

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TURNER, *Associate Justice*

Defendant Kiueluul filed a motion to vacate the judgment in the above-captioned case and re-open for the admission of newly discovered evidence in accordance with Rule 18(c)(2), Rules of Civil Procedure. The judgment, reported *Metecherang v. Sisang*, 4 T.T.R. 469, was entered December 30, 1969, and the motion was timely filed under the rule within one year on August 11, 1970.

The matter has been presented by Kiueluul's new counsel upon affidavit. Good cause appearing, the defendant is entitled to have the former judgment vacated and the new evidence considered.

The new evidence consists of Japanese land records prepared and recorded in 1937 and 1939. The original documents, together with their English translation have been submitted and are now a part of the record in this case. Both instruments are records of registered leases in which defendant Kiueluul is the lessor. The 1937 instrument shows registration of a lease to a Japanese national for a five-year period commencing June 1, 1937. The other is a lease to a Japanese national for a five-year term commencing October 17, 1939. The two leases cover separate parcels of Lot No. 459 as registered in the Tochi Daicho. Both were house lots.

The judgment in this case only refers to the name of the land—Illames—and not the Tochi Daicho lot number. There is a reference in the Pre-Trial Memorandum and Order as follows: "The parties agree as to the boundaries of the area in dispute which is part of Lot 853, known as

the land Illames." Whether the land, Illames, is Lot 459 or 853 makes little difference in the result as the "new evidence" confirms the judgment that defendant was the lineage administrator, with authority to lease it, but was not the individual owner.

The defendant's motion and affidavit, showing the non-availability of the leases at the time of trial, also asserts:

"These documents set out my unequivocal right to the land as an individual owner."

The defendant misconstrues the legal effect of the leases now admitted into evidence. In the management of land matters, the Japanese administration carefully recorded and approved land transfers, including leases. Also the status—ownership or control—of land was recorded in the Tochi Daicho as a result of the Palau land surveys of 1939–1941. This Court has held too many times to repeat the citations here that the Daicho listing is presumed to be correct and can be overcome only by clear and convincing proof. *Elechus v. Kdesau*, 4 T.T.R. 444.

In the judgment previously entered, we held there was no proof to upset the Daicho listing that the defendant Kiueluul was not the individual owner but was the administrator of the land for the lineage. It is within the authority of an administrator to lease the land he controls. The Japanese certification of the registration of the two leases made by the defendant corroborates this authority and its recognition by the Japanese land administration.

If anything, the new evidence produced by Kiueluul confirms the judgment previously entered and does not support his claim of individual ownership. Therefore, the judgment vacated for the purpose of receiving the new evidence is re-entered and affirmed without change. The judgment reported at *Metecherang v. Sisang*, 4 T.T.R. 469, is

ODELL v. MICRONESIAN CONST. CO., INC.

Ordered, reinstated and continued in full force and effect.