

LTELATK FRITZ and TERTERUICH MARIUR, Plaintiffs

v.

RDIALUL TORUAL and ILEK RIUMD, Defendants

Civil Action No. 539

Trial Division of the High Court

Palau District

January 28, 1974

Quiet title action. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that result reached by Master to whom the case had been referred would be approved where defendants did not contest plaintiffs' case.

Counsel for Plaintiffs: ITELBANG LUII

Counsel for Defendants: KAZUMOTO RENGUILBAI

TURNER, *Associate Justice*

The plaintiffs brought this action to quiet title to a house constructed on Eluil Clan land on Arkabesang Island, Palau District. Defendants claimed ownership of the house and required the plaintiff, Mariur, to vacate the premises. The defendant, Riumd, related to Torual only as a clan member moved into the house.

Arakabesang Island was the first land title registration area under the Trust Territory Land Commission Act. 67 TTC §§ 101–120. This case was pending when ownership hearings were commenced by the Land Commission and in accordance with 67 TTC § 108(3) the contested claims for these and other Tochi Daicho lots involving substantially the same parties as in the present case were referred to the High Court for determination.

This court in turn referred this case to Francisco Morei, Acting Presiding Judge of the District Court, to hear it as a Master and report his findings and recommendations. Hearing was postponed at the request of defense counsel

and on the next hearing date neither defendant appeared. However, defense counsel was present and the Master heard the plaintiffs' case. A new hearing date was set for the benefit of the defendants but was again postponed and on the fourth and final hearing date neither the defendants nor their counsel appeared.

At the hearing on the Master's report the defendant Torual and his counsel were present and raised no objection to the result reached by the Master and suggested to the Court that the Master's recommendations be enlarged to restrict defendant's use of the land in question.

The plaintiff Mariur is the brother of defendant Torual and both are brothers of Ucheliei Gibbons, who died May 23, 1971. The plaintiff, Ltelatk, is the daughter of Ucheliei. In 1968-1969 Ucheliei asked her relatives to contribute to the cost of the construction of a house for her. Some \$1,200.00 was raised to pay for the house. Just prior to Ucheliei's death she gave the house to Mariur. After her death the defendant, Torual, who is admittedly a strong member of the Eluil Clan, claimed ownership of the house, moved Mariur out and moved his friend Riumd into the house.

Ucheliei held the senior female title of the clan and upon her death Ltelatk became the administrator of her clan and property interests.

Because the plaintiff's case was not contested by the defendants the Master's findings and proposed decision were in accordance with that testimony. This Court now approves the result reached.

Ordered, adjudged and decreed:—

1. That plaintiff, Terteruich Mariur, received the house in question under the will of Ucheliei Gibbons, who was the sole owner. Sale or removal of the house, however, is subject to the approval of Ltelatk Fritz, the administrator of Ucheliei's estate.

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2. The defendants have no title or interest in either the house or the land on which it is located and may not use or occupy the property.

3. Plaintiffs are awarded costs they may claim in accordance with law.