

NGIRCHONGERUNG, Plaintiff

v.

NGIRTURONG, Defendant

Civil Action No. 9

Trial Division of the High Court

Palau District

September 3, 1953

Action to determine ownership of land in Ngaraard Municipality, in which plaintiff claims individual and absolute ownership and defendant claims either as private owner or as leading member of clan and family. The Trial Division of the High Court, Chief Justice E. P. Furber, held that land belonged either to defendant or to his family or clan as result of Japanese land survey.

1. Palau Land Law—Japanese Survey—Presumptions

Where party fails to show individual rights in land, presumption arising from listing of land in report of Japanese survey in 1941 as personal land of another must stand as against such party.

2. Palau Land Law—Japanese Survey—Presumptions

Where land in Palau was listed as personal land of individual in Japanese survey of 1941, land belongs either to that individual or to family or clan of which he is one of leading members.

FURBER, *Chief Justice*

FINDINGS OF FACT

1. The plaintiff, Ngirchongerung, has failed to show any individual right to Kесекеи, the land in question in this action, as claimed by him.

2. The land was listed in the report of the Japanese survey completed in 1941, as the private land of the defendant, Ngirturong.

3. The evidence is conflicting as to whether the land is owned by the defendant alone as private land, or is owned by the Tublai clan or the Akii family of that clan and is under the control of the defendant as one of the leading members of both that clan and that family. At the trial the plaintiff individually claimed absolute ownership; both the Tublai clan and the Akii family interests were represented by the defendant and no issue was raised as to ownership as between the defendant personally, the Akii family and the Tublai clan. Therefore no finding is made as between them.

CONCLUSIONS OF LAW

[1, 2] 1. The plaintiff having failed to show any individual rights in this land as claimed, the presumption arising from the listing of the land in the report of the Japanese survey completed in 1941 as the personal land of the defendant, Ngirturong, must stand as against the plaintiff, so far as it is consistent with the evidence, which showed that the land was either Ngirturong's or that of his family or clan.

JUDGMENT

It is ordered, adjudged and decreed as follows:—

1. As between the parties and all persons claiming under them, the land known as Kесекеи, located in the Nga-

raad Municipality on Babelthaup Island in the Palau District, and designated in the Japanese land records as No. 885, is owned by the defendant Ngirturong, or the Tublai clan or the Akii family of that clan, of which clan and family the defendant is one of the leading members.

2. This judgment shall not affect any rights of way which may exist over or across the land in question.

3. No costs are assessed against either party.